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Government
Publication

STANDING COMMITTEE ON GENERAL GOVERNMENT

ORGANIZATION

THURSDAY, APRIL 28, 1988



STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

VICE-CHAIRMAN: Mahoney, Steven W. (Mississauga West L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Bryden, Marion (Beaches-Woodbine NDP)

Charlton, Brian A. (Hamilton Mountain NDP)

Daigeler, Hans (Nepean L)

Marland, Margaret (Mississauga South PC)

Matrundola, Gino (Willowdale L)

McLean, Allan K. (Simcoe East PC)

Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Substitution:

McGuinty, Dalton J. (Ottawa South L) for Mr. Owen

Clerk: Deller, Deborah

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, April 18, 1988

The committee met at 10:38 a.m. in room 228.

ORGANIZATION

Madam Chairman: We now have a quorum. We have to consider the budget.

Mr. McLean moves that the budget in the amount of \$30,714 be approved and that the chairman be authorized to present the budget to the Board of Internal Economy to be accepted.

Madam Chairman: Any discussion?

Mr. Mahoney: I am just curious how you consider a budget when you do not know what you are doing by way of meeting.

Madam Chairman: We assume we are going to get two weeks. If we get anything more than that, we will have to come back.

Clerk of the Committee: Can I just explain a little further?

Madam Chairman: Please do.

Clerk of the Committee: We do some checking with the House leaders to see if there is any anticipation of the standing committee on general government getting anything referred to it. There are a couple of municipal bills that will probably come this way and possibly--

Mr. Mahoney: Sunday shopping?

Clerk of the Committee: If you do not want summer holidays, you can ask for Sunday shopping. It is possible we might get one of the education bills if the standing committee on social development gets too bogged down with them. Based on that, we have estimated we will need at least two weeks of sitting. I have put in for three days per week, Tuesday, Wednesday and Thursday, during the adjournment, which is just a possibility.

Mr. Mahoney: The adjournment is from--

Clerk of the Committee: From when the House adjourns.

Mr. Mahoney: The middle of June to September.

Clerk of the Committee: Probably.

Ms. Bryden: We will be sitting three days each?

Clerk of the Committee: Three days each.

Interjection.

Mr. Mahoney: Oh, really? Not after Labour Day?

Interjection: They have never done it before. They have talked about it every year.

Interjections.

Mr. Charlton: They have talked for years about coming back after Labour Day, but they have never done it. We have always come back shortly after Thanksgiving.

Mr. Mahoney: Then we sit through to Christmas, but not through Christmas this year.

Interjection: That is up to you guys.

Mr. Mahoney: Listen to him. We know the game.

Ms. Bryden: If we assume that those two bills, Bill 106 and Bill 77, on Toronto elections are to get through in time for the municipal elections around the province, we probably should consider whether we have or do not have public hearings, which of course can be referred out by the House but has not yet been. If there are no public hearings, then we could deal with the clause-by-clause and any amendments that come forward on those bills and get them dealt with on our Thursday sittings.

When you are talking about two weeks of sitting, you are talking about after the session. But the other thing I think we have to look at is that the summer is going to be extremely busy, particularly with--I do not know how many members will be on the store hours thing but that will be five-day-a-week hearings for at least two months, maybe three months.

Mr. Charlton: Maybe for ever.

Ms. Bryden: Yes. Other committees should order their business--if we have disposed of Bill 106 and Bill 77, I think we should not plan to sit in the summer because there are so many other committees that definitely are planning to sit in the summer. The other rule I hope we will start to adopt is no committee sittings in July except on grave exceptions like the store hours agreement between the three parties, so that all members can have a break.

Mr. Mahoney: Standing committees, because our select committee is sitting.

Ms. Bryden: No standing committee sittings in July at all. I do not know whether your select committee has made its plans for July.

Mr. Charlton: Which committee is that?

Mr. Mahoney: The select committee on education. I think it is the last two weeks of July we are sitting.

Interjection.

Ms. Bryden: And not more than one week.

Mr. Mahoney: How about changing it to no sittings in August?

Ms. Bryden: And not more than one week of sittings in August or September until the House meets, because we really are just being overwhelmed with committee work and people are not able to do their other jobs. If this committee is not needed for specific pieces of legislation, I think we should just not make any plans for further sittings until we hear what bills have been referred out and referred to us.

Madam Chairman: I think that is the key point. I do not think we can really plan until we ultimately know what is going to be referred to us and then we will, as a committee, make those decisions.

Mr. McLean: I would expect that Bill 106 would have to be passed before the Legislature retires from this spring sitting, and I thought Bill 77--are there two Bill 77s? Bill 176 was withdrawn and that had to do with the education trustee representation. It has gone from assessment to population. Bill 77, I thought, was the municipal one giving the ministry the authority to send out the enumeration letter.

Ms. Bryden: It is the enumeration one, I think.

Mr. McLean: But it was passed in the Legislature. We wanted it to go out to committee and the third party did not want it to go out. The government wanted it passed and John Eakins made the announcement one day ahead of time, so Bill 77 has been passed. Bill 106 has to do with the amount of money you can spend, the procedure you go through with recounts and all that thing. I would presume that bill would have to be passed before we leave here.

Madam Chairman: That only underlines the fact that we just are not going to be able to make any concrete plans about timing or what is appropriate, because until we are handed something, we cannot make a decision.

Mr. McLean: That is right.

Mr. Mahoney: If we are assuming that we are going to get a bill referred to us, then why would we not plan to sit, say, the two weeks immediately following adjournment of the House, which presumably would be the last two weeks in June?

Ms. Bryden: It still has to come back to the House for approval and has to be in effect for the municipal election. That is why it must go through the House.

Mr. Mahoney: Talking about that bill, we are assuming that bill will not go to committee.

Ms. Bryden: Are you talking about Bill 106?

Mr. Mahoney: Yes. Is that what we are saying?

Ms. Bryden: I do not know.

Madam Chairman: We do not know.

Mr. Mahoney: But if it goes to committee, it would have to go to committee while the House is sitting. That is what I am saying. We are talking about planning a time to deal with a bill that might be referred to us after the House recesses. If we are going to get one even though we do not know what

it is, why would we not ask for time to sit the last two weeks of June, so then we do not have to interfere with July?

Madam Chairman: I think that also depends on the topic.

Mr. McLean: You cannot. You have no idea what time is going to be allotted to you because the House leaders and the whips have to determine how many committees are sitting and which ones are sitting. They have to split that time up. We have as much problem as the New Democratic Party has in getting members organized. I am on three committees. It is difficult. All you can do is pass the budget, anticipating something for two weeks. If you get it, fine.

Madam Chairman: Being prepared.

Mr. Charlton: The other problem you have in terms of the last two weeks of June--I have no objection, if the House is actually done, to sitting those two weeks and getting it over with and out of our hair. But the House has been known to run past the middle of June in order to get legislation finished that it has to get finished. We had a situation in January where one of our committees had booked hearing time in January and had advertised and everything. Then the House ran through Christmas and totally screwed that up. That is one of the dangers you face in booking those particular two weeks.

Ms. Bryden: I would hope that we might get a sort of consensus from this committee against sitting in July, if possible, so that we can make some plans for holidays right after the session.

Madam Chairman: I do not think we can even assume that the House will not be sitting in July.

Ms. Bryden: But we can have a sort of a consensus from this committee.

Mr. Mahoney: I agree.

Mr. Charlton: I think, Ms. Bryden, that this committee can recommend that. I think the most effective way to ensure that July does not have a lot of committee sittings is for each of the caucuses to deal with that question, as we did last summer, and pass the word to the House leaders from the caucuses as the most effective way of ensuring that is going to happen. If July is open for sittings, the House leaders are going to book committees whenever they can find time slots to book them.

Madam Chairman: Ms. Bryden moves that this committee recommend that there be no sessions of standing committees in July.

Ms. Bryden: The store hours were presumed to be a select committee.

Madam Chairman: Is there discussion on that?

Mr. Matrundola: I want to ask a question. Who put together this budget?

Madam Chairman: Pardon?

Mr. Matrundola: Who prepared this budget?

Madam Chairman: The clerk has prepared it in consultation.

Mr. Matrundola: I suppose it has been put together with due consideration for what is expected of this committee during the period. Is the committee worried that the money perhaps may not be enough, the allocation in the budget may not be enough? If it is not enough, what will happen?

Madam Chairman: We will come back with a revision to the budget and we will have to approve that.

Mr. Matrundola: With a revision. So this is an initial budget--

Madam Chairman: Exactly.

Mr. Matrundola: --because we do not know exactly how long we are going to sit, what we are going to do and so forth? We can go back. There is no point in getting a budget which is not needed, but at the same time, in the event it is not enough, we should be able to go back and get a better allocation.

Madam Chairman: We have that flexibility.

Mr. Matrundola: That is fine. There is no problem.

Madam Chairman: Right.

Mr. Charlton: On Ms. Bryden's motion, I would feel more comfortable dealing with a motion that simply requested two weeks of sitting time for this committee and that those two weeks not be in July. I say that because I do not think it is really our prerogative to decide for other committees what block they would like to block out for their members to have vacations.

• Madam Chairman: But I would hate to see us--

Mr. Charlton: For another committee, August may be a more appropriate block to block out. I, for example, have my holidays booked in August already. We have discussed that in the select committee on energy, for example, and worked out a time schedule that has a couple of weeks of sittings in July.

Mr. Daigeler: I also have some hesitation in supporting a motion on this matter. I think this is something that has been discussed. I think we have a steering committee, do we not, in this group here?

Interjections.

Mr. Daigeler: Once the call comes for a sitting, Madam Chairman, I think you will have to talk to representatives of each party just to figure something out that is convenient. Obviously, it will not fit everyone, but you will have to try to do the best. I do not think one would have any formal motion or formal suggestion at this point. There are just too many unknowns.

Madam Chairman: My concern with the motion is that if we are handed one of the municipal bills and timing is a priority to get it in place for the election, by saying we would prefer not to hear it during July, we would then put it into August which would make it very, very difficult. It could

potentially put it into August, which would create even more of a timing problem, but it is certainly up to the members.

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Mr. Matrundola: Just discussing timing, we should seek whenever the whips or the leaders decide this committee will meet, and that is fine with me, but if I had to choose between two months, I would rather sit in July than August.

Ms. Bryden: I would like to correct what you were saying, Madam Chairman. I do not think you are right that meeting in July would get that bill in effect in time for the municipal election because you have to call the House back to receive our report on the bill and to pass it, so that is not going to happen. If we do not get it through before the House rises for the spring session, and we do not know what date that will be, then it is really not feasible to have those election bills dealt with in July.

I just wanted the motion to be put together for a sort of a straw vote on whether people feel strongly for reserving one month, and preferably the month when people are exhausted after the session, for members to be free to be in their ridings. It seems to me it is not an unreasonable recommendation to the House leaders to consider that fact. Also, people who are on select committees are not going to be covered by that. Select committees are the ones on very important policy matters; that is why they are select committees. I would still like the motion. Do I have a seconder?

Madam Chairman: I do not think you require a seconder.

Mr. McLean: I will not second the motion because we really have no control over what comes to us. We can say we do not want to meet in July, but if the House leaders are determined that there is a bill they want sent out and this is the only place they can slot in time for a committee to sit, you will have to get a substitute. I do not plan on being here in July myself. If I am on a committee that is sitting in July, I will have to get a substitute, as much as I would like to be here. For us to say we are not going to meet is redundant because the House leaders are going to tell us whether we are allowed to sit or not.

Madam Chairman: Is there any further discussion? All those in favour of the motion?

Motion negatived.

Madam Chairman: Is there any further discussion on the budget itself?

Mr. McLean: I moved the budget.

Madam Chairman: Yes, it was moved.

Motion agreed to.

Mr. Daigeler: Just one question: Whatever happened to the Labour estimates?

Madam Chairman: Will the clerk explain that?

Clerk of the Committee: Sorry?

Mr. Daigeler: The Labour estimates.

Clerk of the Committee: There was agreement that they would be deemed to have been passed, in the House.

Mr. Matrundola: Does that mean--

Interjection: For what reason?

Ms. Bryden: They have not come before the House.

Clerk of the Committee: They have not come before the House. There was agreement they would be deemed to have been passed.

Ms. Bryden: --the House leaders' idea that they would--

Interjections.

Clerk of the Committee: The House leaders agreed that they would be deemed to have been passed, the Labour estimates.

Mr. Matrundola: The Labour estimates. OK. I did not understand.

Madam Chairman: I gather it is not unusual for them not to be completed.

Clerk of the Committee: Now we will have new estimates for the new fiscal year.

Mr. Daigeler: When will they be coming?

Clerk of the Committee: After the budget debate, I assume.

Mr. Charlton: The estimates should be out in the next couple of weeks.

Mr. McLean: That all changed when we stopped night sittings. We used to be able to do most of the estimates; most of them were done in the evening when the House was sitting and the committees were all sitting. But now there are no night sittings and we do not seem to be getting near the amount of estimates done that we used to. That is unfortunate because that is really where you get into the nitty-gritty of the ministry. Now we are going to deem that they have been passed after a certain period of time. Lots of them have not even been--for the ministry I am critic of, we have not even discussed Tourism and Recreation's estimates. They will just be deemed to be passed.

Madam Chairman: Is there the possibility of an estimates committee eventually?

Mr. McLean: Yes.

Madam Chairman: That might resolve the problem and ensure that they are looked at.

Mr. McLean: It would be nice to do it more--

Mr. Charlton: The discussion around an estimates committee is that it would be the only committee looking at estimates, but you would not, in any year, look at all the estimates of all the ministries. They would do an agreed number each year. That would fully address the problem (inaudible) which is get all the estimates done. Even in the situation we had last year where we did not get them all done, there were a number of them to be done. That will not change with this estimates committee. You are only going to probably do six or seven a year.

Madam Chairman: Prior to that, when they had evening sittings, did they all get done annually?

Mr. Charlton: Occasionally, you had to cut some hours from some estimates toward the end when the last estimates were being done, but something was done on all of them, yes. Prior to the 1985 election, all the estimates got done in some fashion.

Madam Chairman: That is very interesting history.

Mr. Daigeler: Can you clarify for me why you did not sit on the estimates after the initial meeting?

Madam Chairman: That was the decision of the House leaders, was it not?

Clerk of the Committee: Bill 29 was referred to you in this session in February. Aside from that, the House leaders had agreed to deem them to have been passed, so no committees are sitting on those estimates. We ran out of time in the last session; that is why.

Mr. Daigeler: How did we run out of time?

Clerk of the Committee: The House adjourned.

Mr. Charlton: Traditionally, estimates are done only when the House is in session.

Clerk of the Committee: That is right.

Mr. Daigeler: If I remember correctly, the minister was here before Christmas. Was that not before Christmas?

Ms. Bryden: Yes. That was December.

Mr. Daigeler: Personally, I thought there was time to have at least another session. I thought the chairman would call another meeting on this matter. I find it very unsatisfactory, quite frankly--

Madam Chairman: To leave something incomplete.

Mr. Daigeler: --to start something, to pretend it is something--

Mr. Mahoney: It is not up to the chairman to call a meeting.

Mr. Daigeler: That is what I do not understand.

Mr. Mahoney: You are given time by the House leaders.

Mr. Daigeler: I am not sure whether we as a committee should not assert more of our own authority, quite frankly. It is my own personal opinion, without knowing too much--

Madam Chairman: If the committee wishes to pass a resolution of direction or suggestion to the House leaders, the committee is free to do that sort of thing.

Mr. Charlton: On this question of committee authority, the committee has authority to decide what business it wishes to do, but it does not have the authority to decide when it is going to sit. All the committees that sit are granted time to sit by agreement of the House leaders and a motion in the House.

Mr. Daigeler: If they sit outside the--

Ms. Bryden: There is still a motion in the House giving them authority to sit.

Mr. Charlton: They have to get the authority of the House, especially to sit outside of the legislative session.

Mr. Daigeler: Outside of the legislative session. I was sitting on another committee and everybody said, "Well, when should we sit?" There was no reference whatsoever to--

Mr. Charlton: The Labour estimates were not the only one that were in the vote that you are talking about. We started the Energy estimates prior to Christmas as well. We did our opening statements and that is where it ended. Those decisions were all made by the House leaders and then there was a motion in the House.

Clerk of the Committee: If you look at the order paper, Mr. Daigeler, you will notice that all of the estimates that were referred to all of the committees stopped at mid-point at around the same time.

Mr. Charlton: There were several estimates that were completed. Whatever was on my committee before Energy was completed.

Madam Chairman: This deeming ability of the Legislature is really interesting. They can deem it a different day of the week. They can deem bells not to ring and they can deem something to have been completed.

Mr. Daigeler: What we think is right.

Mr. Mahoney: You are being too logical. It is government. It is not life.

Mr. Daigeler: Quite frankly, I think you have as much power as you assert yourself to have.

Clerk of the Committee: There are certain guide-lines. This committee is authorized to sit, when the House is in session, on Thursday morning and afternoon if necessary, period; no other day of the week when the

House is in session. That is an all-party agreement. The House leaders have agreed to that. This committee sits Thursday when the House is in session.

Mr. Mahoney: At the call of the chair.

Clerk of the Committee: At the call of the chair, if there is business.

When the House is not in session, every committee has to request time from the House leaders, assuming they have something before them to work on.

Mr. Mahoney: On each of the Thursdays the Legislature has been sitting, why would we not have brought back those Labour estimates? They have not been passed in the House.

Mr. Charlton: That is because they were deemed to have been passed. Before the House ever came back, it was agreed that they would do no more estimates and that they would follow the procedure of a motion to deem the estimates having been heard by the committees, and then have the concurrence motion, which is the normal procedure in the House. The committee reports estimates back to the House and then there is a concurrence motion, where the House concurs on those estimates.

Those decisions were made before the chairman had the opportunity to call us into session on the Thursday mornings since April 5 when we returned. So all of those decisions were made before the chairman had the opportunity to even consider that option.

You have to understand, in terms of the standing orders, why some of these decisions have been made and some of the agreements between the three parties have been made.

One of the reasons why this committee has only Thursday mornings to sit and cannot choose to sit on Tuesday afternoon or Monday afternoon or Friday is simply because you have two opposition parties; one has 19 members and the other now has 17 members. You can only have so many committees sitting at any one time or they cannot man those committees. You end up with committee sessions with no quorums and meetings not happening because there were not enough people there.

Clerk of the Committee: There are other reasons too. You have only so many committee rooms and you have only so many staff. They have to decide the number of committees that can sit at a certain time.

Mr. Charlton: The House leaders basically have to agree on what committees are going to sit when so that you do not run into those problems.

Mr. Mahoney: Do not worry about the estimates. They have been spent anyway.

Mr. McLean: That is exactly the point. They are 1987-88 estimates. What is the point in our sitting here and dealing with 1987-88 estimates when they are already spent anyway? That is the point.

Mr. Chairman: Hopefully, we can proceed with our task.

The committee adjourned at 11:02 a.m.

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STANDING COMMITTEE ON GENERAL GOVERNMENT
ORGANIZATION

THURSDAY, MAY 5, 1988

STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

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Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Clerk: Deller, Deborah

Staff:

Smith, Cynthia M., Chief, Legislative Research Service

Witness:

From the Ministry of Municipal Affairs:

Neumann, David E., Parliamentary Assistant to the Minister of Municipal
Affairs (Brantford L)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday, May 5, 1988

The committee met at 10:35 a.m. in room 228.

ORGANIZATION

Madam Chairman: This is the organizational meeting. We have been handed Bill 106 and we have to discuss how we are going to handle that. Public hearings are obviously, in my view, appropriate. We need to discuss timing and how we proceed with that.

Ms. Bryden: As we all know, it is a matter of extreme urgency to get this bill into effect before the municipal election campaigns really get going. I think they are all ready to roll. I know that in the municipal field the minister has approved the boundaries for the Toronto area, and probably for other areas too. I am not sure about the school boards yet.

Anyway, I think, as a committee, we should bear in mind that it is probably essential to get this legislation through the House before the end of June, which gives us very little time for hearings of any sort. But there has been very wide consultation on this bill, as we all know, over the past three years and every local area has had an opportunity for input. I think we should really mainly confine ourselves to the clause-by-clause and discussion of amendments, if any. I hope members will table any amendments they have with us.

If we want anything prior to that, about the only thing I would recommend is asking the minister, or maybe the two ministers—that is, the Minister of Education (Mr. Ward) and the Minister of Municipal Affairs (Mr. Eakins)—who are affected by municipal elections to perhaps come and give us an update on where we are at in this process and what notifications have been sent out. Perhaps he could copy any approval notices he has sent out on boundaries and things of that sort.

That would be my recommendation, that we do not schedule public hearings because there simply is not time to go over all the arguments again.

Mr. Black: I support what Ms. Bryden has said and I suggest we should do two or three things immediately. First of all, we should get advertisements in the newspapers for a week of public hearings.

Madam Chairman: She said no public hearings.

Mr. Black: I support what she says in principle, but I think there should be an opportunity for municipalities to be heard if they want to be. I think we should limit those hearings. I think we should notify all municipalities and boards of education as quickly as possible of the potential to appear if they want to. I think we should request from the House leaders, if we are going to have hearings, that we be given some extra hearing time, perhaps during the last week in May, because I agree that this legislation should return to the House as quickly as possible, preferably by the middle of June, I would think. As a committee, we should try to work towards that kind of time line.

I have heard the two oppositions parties stress the importance of time for municipalities to implement this legislation and be prepared to deal with it. I have heard them. I understand it. I agree with them and I think now is the time to move ahead quickly. They have been most convincing in their arguments.

Mr. Mahoney: I would like to hear from Mr. McLean.

Mr. McLean: Sure, I think there should be open hearings on it. I suggest we should start as soon as possible. Perhaps we can meet on Monday afternoons and Tuesdays after question period. I think the committee is going to have to ask for some extra time to hear delegations. I would think the Association of Municipalities of Ontario and the Rural Ontario Municipal Association should be notified that there will be hearings. I think there are some people in the legal profession who are probably concerned about the part where recounts come in, where they may not be satisfied with the wording. I think there are some people there and perhaps there are some auditors who have concern about some of the sections that they will be dealing with.

I agree with Mr. Black that there should be notices sent out but we can start by calling in, as early as within two weeks, the Association of Municipalities of Ontario and the Rural Ontario Municipal Association. There are lots of people we can call in, but I agree it has to be done within a month.

1040

Mr. Mahoney: What was the last statement? You agree with what?

Mr. McLean: I said I believe that it should be done within a month if possible.

Mr. Owen: I just want to clarify something stemming from what Mr. McLean said. You mentioned auditors and lawyers. If we notified the clerks of the municipalities, would that cover those two areas or do you have some other group you feel should be notified?

Mr. McLean: I was thinking of somebody like Rusty Russell, who does an awful lot of municipal work.

Mr. Owen: Yes, but he would be notified by way of us letting the clerks of the municipalities know.

Mr. McLean: Not necessarily so. He is my next-door neighbour. I would probably let him know and he has a copy of the bill and that is the part he is really concerned about.

Mr. Owen: Is there a specific organization that you wanted us to—

Mr. McLean: AMO and ROMA.

Mr. Owen: No. He mentioned for lawyers and accountants and auditors. Is there any organization you wanted us to notify?

Mr. McLean: No, not specifically.

Mr. Owen: I just wanted to clarify that we understood.

Madam Chairman: Maybe it should be the Law Society of Upper Canada or something. It is impossible to notify every auditor or lawyer in the province.

Mr. Owen: There is an accounting association.

Mr. Mahoney: Are we talking then about sending a notice out to all 850 municipalities or are you suggesting we use the umbrella associations?

Mr. McLean: I think the umbrella associations would be the ones we would start with. However, there are probably some people in small municipalities who may want to have some input.

Mr. Mahoney: How do we get them?

Mr. McLean: I guess through the papers, through advertising.

Madam Chairman: The bill has been sent to all the municipalities already, so they are certainly aware and there has been ongoing—

Mr. Mahoney: So if we run some ads in the—

Madam Chairman: In the dailies.

Mr. Mahoney: —papers; I guess that has to be province-wide.

Madam Chairman: Yes, absolutely.

Mr. Mahoney: Invite the umbrella associations to make submissions; I have already been approached by two people who have asked if they could have an opportunity to address the committee, municipal politicians who want to come before us. I am sure we can cover it that way.

Madam Chairman: Maybe we could put together a list, such as Rusty Russell as an individual, and the people who have talked to you. Collectively, we could put together a list of people we know are interested and want to be notified.

Mr. M. C. Ray: I would suggest lawyers and the city solicitors of the municipalities, as well as the municipal law section of the Canadian Bar Association—Ontario. They have a special section of lawyers who deal with municipal matters. We might also want to notify professors of municipal law at the six law schools.

Madam Chairman: Good suggestions.

Mr. Daigeler: With regard to the notice, I think there should be reference that if anyone is interested in appearing before the committee, he should contact you by phone.

Madam Chairman: That is on there. At least it was. I am sorry—

Clerk of the Committee: Contact by phone?

Mr. Daigeler: Yes, I think so, because being notified will require some time. If they write back, by the time it gets here—

Madam Chairman: It says that at the bottom. It says telephone, and

then Debbie's number is there, who will be handling the calls, and that collect calls will be accepted.

Mr. Daigeler: Yes, but it does not make any specific statement to say, "Please don't use the mail."

Madam Chairman: By phone to the clerk of the committee. OK.

Mr. Daigeler: Are urged to. People generally do not realize it takes about 10 days for the mail to come here.

Madam Chairman: More and more realize it, I think.

Ms. Bryden: I think we are facing a real dilemma, because presumably we all believe in open government and hearings, but in the situation we now are facing there is no time for really open government. I think the government is partly responsible for this, but other people have debated and held out hopes that there might be hearings. If we are going to have hearings and get this bill through clause-by-clause and back to the Legislature before the end of June, we are going to have to cut off an awful lot of people, especially when you spread the net as widely as—I have heard suggestions—all city solicitors, lawyers, professors of municipal law and the umbrella organizations.

Are we prepared to take the flak for saying there will be one week of hearings and that if you have not got in by that time and are not able to get an umbrella organization to take your account, you will simply have to settle for a written brief? That is going to be very much criticized by the people who are saying, "Oh, you're rushing this through." We are faced with a situation where we are going to have to rush it through if we are not going to have a real mess in the municipal elections.

Therefore, I think we should not hear from anybody except the umbrella organizations and the minister and receive written briefs from all the other people. I think we have to face up, before we make this decision today, to what kind of time we think we can allocate to hearing people. We first should clarify this. I think we are allowed to meet only after question period. We may get more than one day a week, but that is only four days each week at the most. We may be able to meet in the evenings if we get permission, and that is something the committee has to decide, but I would say it is going to be very difficult to get a great number of hours for hearing individual briefs or for hearing any kind of briefs. Therefore, we have to face up to that. Can we discuss, Madam Chairman, what kind of time you think we would have for public hearings?

Madam Chairman: Yes, I think we should discuss that, but Mr. McLean is on my list as well, probably on the same subject.

Mr. McLean: The problem I have, and I am concerned about this, is are we going through a process that is not going to change anything? Are we having hearings just for the sake of pacifying some of the people in the province by saying, "Yes, we are listening to you", or is the government prepared to accept amendments? If the government is not prepared to accept amendments to the bill, if it is not willing to listen and to change it, then really there is not much point in going through a process and spending thousands of dollars to advertise and to have people in. I think the parliamentary assistant to the minister would know the government's position on that, and if the government

is not prepared to accept amendments, then we are going through a process here that is costing the taxpayers money for no purpose at all.

Madam Chairman: We have no idea whether there would be acceptance of amendments until we know what the amendments are.

Mr. McLean: No, but the question I asked is, will the government accept amendments or is it saying no, that this bill is perfect, that there is no need for amendments? I think the parliamentary assistant should know whether the government is willing to accept amendments or not.

Mr. Neumann: Our approach would be very similar to the way this committee handled Bill 29 on Metro. I would discuss each amendment with the minister once we had seen it. We feel the bill is fairly complete the way it is, but I would not say we would not accept amendments. We would have to see them and we would be open to consideration of amendments, provided they do not distort the general thrust of the bill.

Ms. Bryden: Does the government have any amendments ready yet?

Mr. Neumann: No, we do not have any amendments.

Mr. Mahoney: Do you guys?

Ms. Bryden: We have no amendments either.

Madam Chairman: Do you have amendments, Mr. McLean?

Mr. McLean: George McCague is the critic for the ministry. I presume they will be considering it this week.

Mr. Neumann: May I suggest that we hear from the umbrella groups in terms of allowing them to appear as delegations and accept letters and briefs from individual municipalities. That might speed up the process.

1050

Madam Chairman: If we are going to do that, we should give them a deadline to respond to us by that would be realistic.

Mr. McLean: Maybe the Rural Ontario Municipal Association or the Association of Municipalities of Ontario has some good ideas.

Madam Chairman: Yes.

Mr. McLean: Maybe there are some good considerations that they have. I look at the part with regard to a little village like Coldwater. No accountants live there, so they have to go through Orillia to get an accountant. Is it really necessary in little villages that they all have to have accountants and chief financial officers, when they do not spend \$1,000?

Madam Chairman: Right.

Mr. McLean: So there is the question.

Mr. Mahoney: It is pretty easy to file a return if you do not spend \$1,000.

Mr. McLean: Except that there is still the cost. We are getting into the bill and I do not want to do that.

Mr. Black: In view of the discussion we have heard so far, I am wondering if we might find a compromise. I suggest we hear submissions from umbrella organizations and so inform them; that we invite written submissions from individuals, municipalities and school boards that may want to do so.

Madam Chairman: Can I just ask on that, would you suggest that the invitation of written submissions be done by correspondence with the school boards, the municipalities and the public utilities commissions, not advertising to the general public?

Mr. Black: I think we should advertise. This should all be advertised to the public, but we should restrict the appearances in front of the committee to the umbrella organizations of the municipalities, the school boards, the trustee associations, the municipal auditors, the municipal lawyers, those umbrella organizations which would give us an overview of opinion, and we should invite written submissions from individuals and from municipalities and school boards.

Mr. Owen: I have learned that Ms. Bryden's experience here has sometimes born fruit. She is telling us that the way it works is that it could drag on, and we might sort of fall apart. I think she is right. I approve of what she has suggested and what Mr. Black has been saying, that we have only the umbrella associations make the presentations and have everyone else, by a certain date, have them in in writing. I think she is probably right. She has been over the turf before.

Madam Chairman: Is there general consensus that we invite the umbrella associations, and through advertising and letter, we invite written submissions from municipalities, school boards, public utilities commissions and individuals who are concerned? Does that cover it?

Mr. Mahoney: Yes.

Clerk of the Committee: Could I clarify it further? In the ad you have in front of you then, from the second paragraph, we will remove "request for appointments to appear before the committee." We will remove that section entirely.

Mr. Mahoney: Is there any merit in putting a statement in the ad that due to the necessity to have this bill ready for the November municipal elections, the committee will be reporting to the House in this session or something to that effect?

Madam Chairman: I think the concern that you are expressing is covered by the "all briefs should be deposited with the clerk of the committee not later than." I think we should set that date. That then says we are moving on it quickly, without needing to go into more detail.

Clerk of the Committee: In order to help you set that date, if this ad is sent to the advertising agency of record today, the earliest it can go in all Ontario dailies is next Thursday. That is May 12. So it will have to be, obviously, after that date that you set as a deadline.

Mr. Mahoney: Do you have a recommended date?

Clerk of the Committee: My suggestion would be the end of May for written submissions.

Ms. Bryden: That is certainly cutting our time very short, because we have not yet explored how much time the House leaders will give us.

Madam Chairman: Maybe we do not need to ask for additional time if we are only inviting the umbrella organizations to appear before us. We should be able to schedule that on a Thursday.

Ms. Bryden: I do not think we are even authorized to sit in the afternoon, are we?

Madam Chairman: Yes.

Ms. Bryden: There could be a dozen umbrella organizations if we get teachers or trustee groups as well. I suggest that we put an ad in inviting written submissions from anybody who wants to make one, including municipalities and school boards, with a date. If it does not get into the paper by May 12, it would have to be about June 1, I think, to give any sort of time.

In the meantime, I suggest we invite by letter all the umbrella organizations and get going on those hearings immediately. If necessary, if there are half a dozen, we could perhaps ask for some additional sitting time, either after routine proceedings or one evening a week or something like that, so we have it. We should attempt to dispose of all those umbrella hearings, if possible, by the first week in June so that we can get on to clause-by-clause to be sure the act gets through.

Mr. Neumann: I have a question for clarification of what Ms. Bryden is saying, just so that we know our timing. Is she suggesting clause-by-clause would be dealt with in the first week of June?

Madam Chairman: Is there a consensus that is realistic? Actually, what is our calendar?

Mr. Mahoney: Why could we not meet next week as a committee and do clause-by-clause?

Madam Chairman: You cannot do that until you hear from people.

Ms. Bryden: There may be amendments that come out of those submissions.

Mr. Mahoney: There is a lot of it that is noncontentious; that is all I was thinking.

Ms. Bryden: You never know what is contentious until you hear the submissions.

Madam Chairman: Right. What is the last working day in May? That should be the date of receipt. I do not have a calendar in front of me, but I think that is appropriate.

Mr. McLean: Tuesday, May 31.

Madam Chairman: OK. We need a "commencing" on this ad. Is Thursday, May 12, OK? Next Thursday it would commence, which is actually the day that the ad will be in the paper, but we will have had invitations out to the umbrella organizations.

I have some suggestions of umbrella organizations. There is the Association of Municipalities of Ontario.

Mr. McLean: ROMA.

Madam Chairman: There are the trustees' groups you have suggested, Ms. Bryden. I think there is an umbrella clerks' organization, is there not?

Mr. Mahoney: Yes, municipal clerks and treasurers.

Mr. Neumann: I think Mr. McLean was suggesting AMO and ROMA. The Rural Ontario Municipal Association is a section of AMO, so perhaps you could send it to AMO and ask it to notify its sections.

Madam Chairman: Yes, I think that is appropriate.

Ms. Bryden: Are you getting only one submission from AMO, or can ROMA—

Mr. Mahoney: Quite often ROMA disagrees with AMO.

Madam Chairman: If we are going to do ROMA, we should do AMO as a body and do the sections. There is no big problem with doing the sections individually, and you are quite, they may have individual reactions to this.

Any other suggested umbrella groups?

Mr. M. C. Ray: I am assuming you are including the large urban section of AMO.

Madam Chairman: Yes, all of the five sections.

Mr. M. C. Ray: I would say, as I said before, the municipal lawyer section of the Ontario branch of the Canadian Bar Association.

Mr. Neumann: Clerks and treasurers are the key organizations.

Madam Chairman: Clerks and treasurers, yes.

Ms. Bryden: What about solicitors too? Municipal solicitors.

Madam Chairman: That is the municipal law section of the Canadian Bar Association. I think that covers them. That is their umbrella group.

Any other suggestions of umbrellas? We have covered the boards of education and we have covered the trustees. Is there an umbrella organization of public utilities? I think there is.

Mr. Neumann: Yes, there is. They are under three separate bodies. Public utilities commissions deal variously. In some cases, it is a

one-utility commission and it would be the Municipal Electrical Association; then there is the municipal water work association—I am not sure of the exact title—and then there is the transit. So there are three utilities, and each has its own association. Among the three of them, they would cover all public utilities commissions in the province.

1100

Madam Chairman: Are there any publicly elected transit commissions here?

Mr. Neumann: Yes.

Madam Chairman: OK. I think that has covered it.

Ms. Smith: Do you want the legislative research service to summarize the hearings and briefs in a concise form? Is that what you see as our role?

Madam Chairman: I think from my perspective it would be very useful to have summaries of the briefs in a concise form. Yes, I think that is very, very helpful.

Ms. Bryden: Yes. I think we can ask our researcher to deal with all the written briefs and give us very short summaries of them so that perhaps we can get back to some of them as they come in.

Madam Chairman: So we have agreement on the need for a researcher.. We have agreement on our methods of notices. We have at this point not decided that we need additional time other than our Thursday mornings. We already have the authority to meet Thursday afternoons if required, and we will make a judgement on that by the responses received.

Mr. McLean: I do not think you can have it just on Thursdays, in my opinion. We have to have more than just Thursdays, I am sure of that, because lots of briefs will take maybe close to an hour by the time they present their briefs and you have a discussion with them, so you may get only two briefs in one morning. I am saying that you are probably going to have to sit Monday afternoon and Tuesday afternoon, plus Thursday morning.

Ms. Bryden: And maybe Thursday afternoon.

Mr. McLean: Yes.

Ms. Bryden: I would agree with what Mr. McLean says, that we should get authorization for the extra time. There will be other committees also demanding authorization for after question period.

We should also, in sending out our letters to the umbrella groups, suggest that if they do not each want to appear individually, they could pass their things on and, say, have one public utilities group represent the other three; or some of the municipal sections could get the Association of Municipalities of Ontario to cover them.

Also, we have to be very strict about saying we cannot allow more than half an hour per presentation. Is that too tight for an umbrella organization?

Madam Chairman: I do not think so. I think it is fairly straightforward. They can be concise. Then maybe we should decide half an hour for a presentation and decide what kind of maximum limit we are going to put on questions and responses from them.

Mr. McLean: I think you should cut their presentation to 15 minutes.

Madam Chairman: OK, 15 minutes?

Mr. Neumann: On the committee I am on, each delegation is notified that it has half an hour. They can divide it between presentation and questions. If they take 25 minutes for their brief, they know they have only five minutes left. If they take 10 minutes—

Mr. McLean: It does not work that way.

Ms. Bryden: No. The committee members may have questions they want to get clarified.

Madam Chairman: I think we should decide ourselves what our total package of time is going to be and we should tell them in advance that that will have to include time for their presentation and questions.

Mr. Mahoney: They can make a presentation in 15 minutes?

Madam Chairman: I should think so. Councils in many cases limit it to 10 minutes per presentation.

Ms. Bryden: They can always submit additional written material.

Mr. Neumann: As you did with the Metro bill, will you be wanting to start next Thursday with a presentation from the ministry?

Madam Chairman: Yes, I think that is a very good idea.

Mr. Neumann: Overview of the bill and questions?

Madam Chairman: Ms. Bryden requested that the Minister of Education also come.

Mr. Neumann: Will you be looking after asking the Ministry of Education?

Madam Chairman: Yes, we can do that. We will assume that you are handling the other end on your ministry. OK?

Is half an hour a good time, to suggest that it will be 15 minutes for a brief presentation and we can tell—

Mr. McLean: A maximum of 15 minutes.

Madam Chairman: Yes, and then there will be questions from the committee. That should be in the letter so they can adhere to that.

Ms. Bryden: That is next Thursday morning. I think we should ask some of the umbrella organizations if they are ready to start Thursday

afternoon and then schedule them for the next two Thursdays. If we get more than we can handle on those Thursdays, then we immediately ask for extra time. I do not know whether we should ask for it right now, at least for one or two days. I guess, until we get the applications in, we are not sure.

Madam Chairman: I will ask the clerk for some advice too. You two have the experience here.

Clerk of the Committee: I would suggest, if we can get an umbrella organization that can be ready and is willing to appear next Thursday, May 12, in the afternoon after routine proceedings, that we do that. By the following week I will have some indication of how many other groups we have got that want to appear and can let you know how many days we will need in order to hear them.

Ms. Bryden: We should be able to get at least two in after routine proceedings if they are only allowed half an hour.

Clerk of the Committee: We should be able to get three if we limit them to 15 minutes.

Ms. Bryden: Maybe three. I will try to get three lined up for next Thursday and then for the following two Thursdays. We must hear from them by a certain date. We must then give them a date too, not May 31, but the date for the act.

Madam Chairman: Would it be possible, since we are really only dealing with maybe a maximum of 12 umbrella organizations, that in addition to sending out the letter, which we will do as quickly as possible, we also phone them—it is not a big problem—and let them know immediately so they can know by tomorrow that this is the schedule we are on, that this is what we are doing and we would like to start scheduling them on May 12?

Then we can be moving right along with it. We may not need any extra time at that point. We will have to see next Thursday when we will have a better reading on it and go from there. Then, if we need to, we will request the extra time. The House leaders, I gather, do meet on Thursday.

Ms. Bryden: Does that mean we would be ready to start clause-by-clause on, say, the first Thursday in June?

Madam Chairman: Yes. I think that would be an appropriate time frame.

Mrs. Marland: Nice new signs, my gosh.

Mr. Mahoney: Jeez, it is going to come up in question period.

Madam Chairman: Welcome, Margaret.

I think we have covered everything.

Clerk of the Committee: Just going back to the ad, in the first paragraph you notice that the last line says, "and other locations throughout Ontario." I am assuming that this committee would prefer not to travel on this bill, so I will leave that statement out.

Then, on the bottom of the note where it says, "The committee may also want to include a short explanation," I have two questions: Do you want to include the explanation, and is that explanation acceptable?

Madam Chairman: Personally, I think it is appropriate. Nobody knows what we are talking about when we say 106, 76 or anything. It is appropriate, particularly for individuals.

Mrs. Marland: Madam Chairman, since I realize I am the only representative of our caucus here and since I am a little late arriving because we did only receive notice yesterday—

Madam Chairman: Mr. McLean has been here and participated in the discussions.

Mrs. Marland: That is fine then. OK. I just thought, for the record, I should make sure that I know what was discussed so that we do not have the embarrassment that we had last time because we thought we heard and we did not. I just wanted to support you in whatever you decided, but I thought I had better find out what you decided.

Madam Chairman: What we have decided to do is to invite, by letter, all of the umbrella organizations for the municipalities, the public utilities commissions and the trustee associations, etc. We will also notify them by telephone. We are going to set up hearings, starting on May 12. There will be advertising in all the daily papers that will request written submissions from groups and individuals to be received by May 31. We hope to go to clause-by-clause the first Thursday in June.

Mrs. Marland: Great. Thank you.

Ms. Bryden: Do you want to drop the "s" off disclosures in the explanatory thing? It provides for disclosure of.

Madam Chairman: Yes. Is there agreement that the explanatory two paragraphs should go in the ads?

Agreed to.

1110

Mrs. Marland: When is this supposed to be effective? For this fall?

Mr. Mahoney: November 1988, I think.

Ms. Bryden: Yes, as far as getting it through before the House.

Mr. Mahoney: I think it is retroactive to January 1, is it not?

Ms. Bryden: Yes, as far as the contributions control.

Madam Chairman: There was discussion in the House yesterday by the two opposition parties that it needed to be moved quickly, that there were time constraints, and of course there are. People need the information as soon as possible about what the rules they will operate under are.

Mrs. Marland: Are we travelling with it?

Madam Chairman: No.

Mrs. Marland: We are only holding hearings here?

Madam Chairman: Yes, but the papers, the advertising, of course, will be all across the province.

Ms. Bryden: People can write. That is all the time that is available.

Mrs. Marland: That is what you meant when you said you are taking out "and other locations through Ontario as might be required."

Clerk of the Committee: That is right.

Mrs. Marland: I guess because all these organizations have budgets for their members to travel to Toronto, it is not a problem to hold meetings only here?

Madam Chairman: I do not think it is. If we were dealing with a whole lot of individuals, I think it would be a different scenario, if we had more time, but as we are dealing with the umbrella organizations, most of them are centred fairly close to Toronto and will not have a problem with meeting here.

Mrs. Marland: That is right.

Ms. Bryden: Do we work in this committee room, or is there any possibility of working in a bilingual committee room?

Clerk of the Committee: This committee is usually scheduled in this room. I can certainly put in a request, if you prefer to sit in room 151. If there is a group or organization that is going to be making a presentation in French and you want to have simultaneous interpretation, it can be set up in this room at a cost.

Mrs. Marland: Marion is probably right. We should request it.

Ms. Bryden: I doubt very much if we will have many francophone groups unless there are francophone associations of trustees.

Mr. Daigeler: I think you should be able to decide that. If some francophone individual or group wants to make a representation, then I think the clerk should arrange that we meet in the appropriate room.

Madam Chairman: I think that is good direction for the clerk. She will be dealing with those who request to appear and can make a judgement call and make sure we can handle it. It is a good suggestion.

Mrs. Marland: That is not the only aspect, though. I think Marion's question is well placed. Because of the fact that we are dealing with something that affects a lot of people and because we are not travelling to northern Ontario, it may well be that we should request room 151, and then we do not have to scramble. I am not thinking only of the deputations; I am thinking of the people who are wanting to know what is going on, and through having it in that room—

Mr. Daigeler: Do you mean people in the audience?

Mrs. Marland: I am talking about the fact that room 151 is televised, and if people want to be able to see it—

Ms. Bryden: Yes, and it goes out with translation.

Mrs. Marland: It is televised with translation if people need it, and maybe because of the importance of it, that request should be made, and if it is available, let us do it.

Madam Chairman: OK. Let us make the request.

Mrs. Marland: One other question, because I do not know the answer to this, and maybe you do: Are there any northern Ontario organizations with regard to municipal representatives in any way? We have the Federation of Canadian Municipalities, which is across Canada, but is there any formalized group within the Association of Municipalities of Ontario and the Rural Ontario Municipal Association that is only northern Ontario?

Madam Chairman: I do not believe so. In my municipal experience, I think they are covered under ROMA, because they are mostly small rural municipalities, and the others, the cities, are covered under the urban section of AMO, so that does cover them all.

Mrs. Marland: Right. Maybe what our clerk could do is just check with a couple of northern Ontario members and make sure—

Madam Chairman: See if there is another umbrella.

Mrs. Marland: If there is another umbrella group up there, just make sure that it is not an inconvenience for them. That is all.

Madam Chairman: Perhaps we should discuss whether it is appropriate, since we are going to be meeting in Toronto—and your point is well made, Margaret—if there is a delegation from an umbrella organization that wishes to come a distance that we should, in fact, pay its travel costs.

Mrs. Marland: It would be much less than our travelling there.

Madam Chairman: Certainly, and much less time-consuming.

Mrs. Marland: That is right.

Madam Chairman: Mrs. Marland moves that if we find there is an organization that would be invited to participate, if it wished, and it is an out-of-town organization for whom there would be an expense incurred, the committee would meet that expense.

Motion agreed to.

Madam Chairman: Is there any other business?

Mr. McLean: I guess the key point that Margaret has made is that we should try to get the Amethyst Room. That would certainly broaden the number of viewers of what is taking place.

Madam Chairman: Mr. McLean moves that the committee attempt to obtain the Amethyst Room.

Motion agreed to.

The committee adjourned at 11:17 a.m.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT

THURSDAY, MAY 12, 1988

Morning Sitting



STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

VICE-CHAIRMAN: Mahoney, Steven W. (Mississauga West L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Bryden, Marion (Beaches-Woodbine NDP)

Charlton, Brian A. (Hamilton Mountain NDP)

Daigeler, Hans (Nepean L)

Marland, Margaret (Mississauga South PC)

Matrundola, Gino (Willowdale L)

McLean, Allan K. (Simcoe East PC)

Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Substitution:

McCague, George R. (Simcoe West PC) for Mrs. Marland

Clerk: Deller, Deborah

Staff:

Smith, Cynthia M., Chief, Legislative Research Service

Witnesses:

From the Ministry of Municipal Affairs:

Eakins, Hon. John F., Minister of Municipal Affairs (Victoria-Haliburton L)

Manios, George, Policy Adviser, Organization Policy Section

Noble, Wendy, Manager, Organization Policy Section

Neumann, David E., Parliamentary Assistant to the Minister of Municipal
Affairs (Brantford L)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday, May 12, 1988

The committee met at 10:05 a.m. in room 228.

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT

Consideration of Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

Madam Chairman: I think we are ready to start. Our first item of business is the presentation by the minister and the ministry. I am sure you all know John Eakins.

Then I would like to draw your attention to the agenda, which shows we have the presentation from the ministry this morning and then we do not come back until 3:30 p.m., when the Commission on Election Finances will make a presentation.

We have done a lot of contacting, but maybe after the minister has finished his presentation, the clerk of the committee can give us an update of the people we have been in contact with, when they are scheduled in and what is happening on those various items.

Minister, the floor is yours.

MINISTRY OF MUNICIPAL AFFAIRS

Hon. Mr. Eakins: Thank you very much, Madam Chairman and colleagues. I am pleased at the opportunity to talk to you this morning about Bill 106. I thought I might just go through some of the principles of the bill. Following that, you may want to go over, if that is on your schedule, some of the background of the bill, a presentation by people from our ministry, George Manios and Wendy Noble, who can give you the background of what the bill is all about. But I will certainly be open to whatever is the wish of the committee and also to answer any questions you might have in regard to the bill generally.

I will not take up a lot of your time because I think you know my views. You have heard me speak about the bill in the House. Rather than go through all of the details of the legislation once again, I would just like to take a minute and talk about the philosophy behind the bill, touch on some of the more important features and explain why I think they are important.

As you know, one of my main goals since becoming Minister of Municipal Affairs has been to enhance municipal accountability through a number of reforms. One of the hallmarks of strong, healthy local government, as far as I am concerned, is an efficient, effective, open and accessible electoral process. The legislation is intended to strengthen local government by making the local government election process more accessible and open to both candidates and voters.

One of the first assumptions we made when drafting the bill is that good people should not be discouraged from running for office by the high cost of getting elected. Many parts of the legislation address that concern.

The limits on campaign fundraising and spending, for example, attempt to keep campaign spending within reason, while at the same time recognizing that the cost of running a campaign varies across the province. The cost of running a campaign in a larger municipality is certainly higher than it is in some of the smaller communities.

I know that the limits set out in the legislation will seem high to local government politicians in some of the province's smaller communities. They have already told me about that. But keep in mind that these are maximums, not minimums. If candidates in some municipality already spend less than the limits we have set out, there is no reason to suppose they would not go on doing so. The limits probably will not be changed for some time.

At the same time, we have taken steps to make it easier for candidates to raise money. This also encourages people of more modest means to donate and contribute money and therefore is opening up other financial sources to candidates.

I can say only that one of the realities of government at all levels, municipal as well as provincial and federal, is that tough decisions have to be made about how to allocate scarce resources. If individual jurisdictions believe a campaign contribution rebate system is important, they will find ways to fund it. If not, they will not. That is a decision they will have to make. The federal government funds federal contributions and the province funds the provincial system, so it is only fair that the municipalities fund their system.

Along with those spending rules and the campaign contribution rebate option goes the measure to make the electoral process more open through compulsory disclosure by all candidates of their own campaign fundraising and expenses. This information should be on the public record, I believe, and the legislation before you today will ensure that it is. No longer will a newspaper, for instance, have to spend months digging up information on who gave what to whom. Anyone can simply walk into the clerk's office and obtain that information, as I believe he should be able to do.

The other side of the accessibility issue is the accessibility of the electoral process to the voter. This bill does a number of things to make the process more accessible to the voters. It requires two advance polls instead of one. It standardizes voting hours. Both advance and regular polls will be open from 10 a.m. to 8 p.m. Any elector who is unable to attend the poll will be permitted to vote by proxy.

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Furthermore, we are working towards making the electoral process more accessible to the disabled and physically challenged voters. The legislation requires that all advance polls be accessible this November and that all polls be accessible in the 1991 local government elections.

Madam Chairman, before leaving the committee so that you can discuss the bill, I would like briefly to address one concern I know some of you have, and that is the issue of timing. There is no question that time is tight. The legislation will have a significant impact on the way municipal clerks run the local government elections. It will also affect candidates and the way they run their campaigns. The sooner the rules are in place, I think the better off they will be. I want to assure the members of this committee that steps are already being taken to alert the clerks and potential candidates about the coming changes.

In the Legislature last December 10, I outlined in detail the government's intentions with respect to municipal election reform. As early as February, my ministry began holding seminars across the province for people interested in running for office at the local government level. These were well publicized in the media, in news stories as well as in advertising. Although there was no legislation at that time, the people who attended these seminars were told about the proposed changes. During Local Government Week we alerted the public in a general way to the fact that changes would be coming.

We are already briefing municipal clerks about the legislation that has been introduced. Once the legislation is passed, we will once again brief them about the bill in its final form. We also plan to advertise the new rules with respect to campaign financing as soon as the legislation is passed in order to ensure that all potential candidates are aware of the new rules.

So even though we have no time to waste, I have no doubt that this legislation can be introduced smoothly. I believe it is a good bill and has the support of many people across the province of all party persuasions.

I trust that as you consider this bill you will keep in mind the principles I have outlined, the principles of fairness, openness and accessibility. It is very important to me and to local government in Ontario that this bill reflects those principles. I want to say to the members of the committee that I feel municipal government is just as important as federal and provincial governments. I do not believe that municipal government has for a long time had the profile and the importance in the citizens' minds that it should have.

I think we need a new election act. I think we need these changes to give it a higher profile and a higher importance so that the people who themselves serve in municipal government will feel that they are a part of an important government, that there is some accountability, that we are doing everything possible to get people to come out and vote, that we are not just leaving things as they were because it might be convenient and that we are trying to give it an update and make it much more important, because municipal government is changing. In the last number of years we have seen many of these changes. So I feel this is a good bill.

I will be interested in the comments of the members of the committee and the people who want to come before the committee and talk about it, but I hope that in the final analysis what we have here is something we can be proud of as a good municipal process that is open, fair and aboveboard and that the people feel in the long run that municipal government is something they can be proud of and an important part of the life of this province.

Those are the main remarks I want to make at this time. I am certainly open to any comments or questions that the members might have and I think too that because there are misconceptions about this bill, it would certainly help to clarify in your minds if perhaps the people from our staff have an opportunity to go through some of the technical details. It will become even more clear what we are attempting to do.

Ms. Bryden: I appreciate the minister's coming before us and indicating the principles on which the bill is based, fairness and accessibility, and reform of some of the details of the act.

On the fairness principle, do you not think it is unfair to individuals who are in municipalities which do not opt into the tax rebate system not to

have the right to get some sort of rebate for their contributions to the election finances of any candidate? Is it not also unfair that they will not have legislation requiring disclosure of financial obligations unless they are over a certain level?

Do you not think that is an unfair principle and that you should have had a province-wide rebate system not requiring local opting in, and that it should be partly financed by the province because of the fact that this is going to be a new expense for the municipalities? It will not encourage them to go into it if they know it is going to be a fairly substantial expense, and it will not encourage voters to participate with contributions if they are not sure whether they are going to be rebated.

You mentioned that at the federal and provincial level each pays for its own rebate system. Is it not true that the federal government picks up some of the provincial rebates through the income tax system, or is that all taken out of Ontario tax?

Hon. Mr. Eakins: It is a good question. Let me say, first, that disclosure is required for everyone. The degree of disclosure will depend on whether the municipality opts into the contribution rebate. If a municipality opts into the contribution rebate, everyone who receives public funds will have to provide an audited statement. Otherwise, it is outlined in the bill the degree of disclosure that is required. Anyone in this bill, for instance, who raises or spends, I think, \$20,000 and more must provide an audited statement automatically. But there is a declaration for all candidates, even though they are not part of the rebate.

It is my view that municipalities should provide that rebate. I do not think it should be a provincial responsibility.

Also, there is some question from many of the smaller municipalities. You said they did not want to be part of a rebate system. We feel at this stage it is new and it is something they should have the option to opt into or not be a part of. After all, these are public funds, and I feel that if the people who want to run for office and the citizens generally feel that it is something good for their community but the council is not prepared to be a part of it, they should, through democracy, tell their elected representatives they would like to be part of that.

I think this is the fair way. Some of the large municipalities have said to me, "We want to have it," and we are responding. It is a first step. Not everybody is sold on it, let me tell you. I am sold on it, because I think the little people who want to contribute to municipal life will be encouraged to do so. This is part of raising the view of municipal government: everyone can contribute to the other levels, and I feel that at least they should be given the option to be a part of this system.

So we are saying it is an option: you can opt in or not. The municipal councils are the people who are going to declare whether they want part of their financial affairs to be refunded to those who make contributions. I think it should be the municipal councils who make that decision to rebate because the money will come from the municipality. It is not a credit on your taxes, it is a cash rebate, and they should make that decision. I hope that more will opt in, but I do not think they should be forced to. That is my view.

Ms. Bryden: I have just one follow-up. Is it true that the rebate at the provincial level is partly paid for by the federal government, or is it not?

1020

Hon. Mr. Eakins: I do not know to what extent it is. I just feel in this case that when it is a cash rebate, the municipal council has to be accountable for the funds that it is responsible for. They should be the people who make that decision and pay out of the municipal coffers.

On the questions on the bill itself, certainly the people who are here with us could go through that and it would become clear what some of the details of that bill are.

Ms. Bryden: Maybe one of your officials could check out that point.

Hon. Mr. Eakins: We could check that out, sure. I cannot say that I know exactly how it works.

Madam Chairman: We could probably get clarification of that.

Hon. Mr. Eakins: Sure. You will have that this afternoon, I know.

Mr. McCague: You make a very glowing speech about municipal governments of which you were a part, and I never thought that the council in Lindsay had a very low profile, especially when you were head of it. However, I think the local councils are known well where they are supposed to be known well, and that is within the local municipality.

As far as accountability is concerned, which I have heard you stress on many occasions, I guess your accountability comes strictly from the fact that you have to declare what you do with the money you raise. That is the accountability you must be referring to, because there is really nothing else in that bill that relates to accountability.

There are some good things in the bill, like proxy and having to live in the municipality. There are some good things, but I hope you will come to the point of realizing that, even though federal elections are federal funds and provincial elections are provincial funds—and we will get that other point clarified; I know your parliamentary assistant is telling you that the feds play no part in provincial elections—yet I would want to have an auditor tell me that is exactly so, because when it comes off the bottom of your tax there may be some implication there.

However, there is one hell of a difference between the way the system works federally and provincially from the way it is going to work municipally. All you do, simply, if you make a donation to the Liberal Party, which I have never done in my life, is that you deduct that off the bottom of your tax payable. That is a tremendous difference from the fact that a municipality is going to have to fork over the amount of the refund if it chooses to go for this system.

I have listened to you carefully in the House and again this morning, and you are saying, I think, that you are persuaded by what you hear from larger municipalities to introduce this system.

I have no particular problem with that, except that I hope you realize there is going to be a tremendous amount of pressure on other municipalities to do it just because big brother does it, big city does it, or small city or a town or whatever. The pressure is going to be tremendous.

Now just visualize this. Sure, the local council can decide whether or not it is going to institute this system, but if it decides not to, what does that do to the fellow on the outside who is trying to get in? He has no way of persuading council, unless he gets inside, that the council should institute this system. So while it may look good and you stress accountability and higher profile and fairness and so forth, it is fraught with a lot of problems.

We talked in the House about the fact that in many of the municipalities in the area that the three members from Simcoe county represent—and maybe Mr. Owen will have the same view as his two colleagues from Simcoe; he may not—a lot of these elections are run with no money at all. As soon as you put something in front of them that an ambitious clerk or an ambitious ratepayer puts pressure on them to adopt, I am afraid they are going to have to adopt it.

I guess I would have much sooner you had gone for a system that allowed cities to do it, or centres over a certain population, to see how it worked that way, without just saying, "You can do it if you'd like to do it, but if you'd like to do it in a municipality, that is going to be the present council that is going to make that decision." I do not think that will be enough people, in many cases. There are people on the outside who will want to make that decision.

I did not want to let you go away without saying a few words to you about these things, to tell you that there are some good things in the bill, but I think you are going to wreak some havoc with the election that is coming up this fall, especially in the smaller municipalities, which most of mine are.

We have talked before about the sort of one-person operation, as you have in many townships. Mr. McLean will tell you that he has one township with about 500 permanent residents. I never did get an answer from you, either, on that business of how many places have one poll. Your parliamentary assistant is probably going to tell you it is zero, but I am not sure what allowance you made if there is one with one poll.

Anyway, I guess the minister is going to proceed at his own peril. I just wanted to put those things on the record prior to that.

Hon. Mr. Eakins: I appreciate the concerns you have raised about the small municipalities. I certainly represent and know very well some of the concerns. I guess in putting together a bill like this there is always a bit of pain and concern with some because of the size of the municipalities across the province. What do you do? Do you divide the bill in half and say this bill is going to address those from 20,000 up, or whatever the magic number will be, and there will be something else for those lower? There are some things in this bill that I think we should all be a part of. Some of the small municipalities might have one poll. We are talking about accessibility to that poll, for instance.

Some of the rural people have said to me, "Oh, boy, I do not know how we can find the poll in which those who are physically challenged can enter the poll." I do not think that is an excuse, and I tell you I stand on that very firmly. If that municipality is not making available facilities for people who are physically challenged, disabled, to enter that facility, then I say to you it should. It is long overdue, and I do not accept that as an excuse, because in our public buildings today, you go to pay your taxes, you go to see the municipal clerk or whoever. If you are in a wheelchair or if you have a heart problem, you should be able to enter that building without question. Maybe in the past we have just not been forward enough to make sure that people do have that access.

With regard to the contribution credit, listen, there are varying degrees on that. Should we have it or not? I see initially that it is going to be the larger municipalities that will probably take advantage of it. I would say the great majority of the rural municipalities may not want to be part of it, certainly at the start, or maybe not at all, but I think that is their option.

I have had letters from people who live in small municipalities. I know there is a retired minister who lives down in Perth. He said, "Why can't we have an opportunity to make a contribution and get some form of credit, the same as we do in the other levels of elections?" I agree they should have that opportunity, but I think the decision of whether they are going to be a part of a rebate that is part of the treasury of that municipality should rest with the elected people.

We can have some discussion on that and I will be listening to that. Listen, I am open. I do not have a closed mind. I am listening to what the committee is saying and I am listening to what the people who appear before the committee are saying. I appreciate your comment and I do not take it lightly.

Mr. McCague: I think it is fair to say that, in the House or in committee or in any kind of conversation, that no member of the Legislature ever criticized you for wanting to make the polls more accessible. I heartily endorse that and I am sure we all do.

The only other thing I would like to tell you is that I have never heard of anybody being disfranchised in Simcoe county because the poll was not accessible, because the pollster goes right out to the curb and gets the vote anyway. Is that legal?

Hon. Mr. Eakins: As you go through the bill and as the people from our staff go through some of the things that are in that bill to try and improve the opportunities for voting in different ways, I think you will see that we are trying to do everything we possibly can to encourage people to go out and vote and raise the voting percentage in municipal elections.

1030

Madam Chairman: Ms. Bryden?

Ms. Bryden: Thank you, Madam Chair. I notice you have changed your name on the official nametag to "Madam Chair," which I think is a good compromise on "chairperson."

I just wanted a little more information about what the people can expect in the way of when things will happen. For instance, when will the voters' lists be available in all municipalities?

Hon. Mr. Eakins: I am going to ask Mr. Manios and Wendy Noble if they might come up and just give us the exact dates on this, if that is all right, Madam Chairman.

Madam Chairman: Certainly, and they will be making presentations in detail afterwards. Please come forward, but we do have a number of questioners for the minister. Do you want the answer from Ms. Noble?

Ms. Bryden: Well, I am just—because it is very—

Hon. Mr. Eakins: This may relate to the other bill?

Ms. Bryden: Yes, it does relate to Bill 77. When will the voters' lists be finalized and available to the candidates and the electorate?

Mr. Manios: The preliminary lists of electors will be available on September 6. The polling lists will be available after October 17. The polling list is the list that is the preliminary list plus all the changes that have occurred during the revision period. Therefore, a candidate will have an opportunity on September 6 to have the preliminary list and get a fair idea of the number of electors in his or her own municipality.

Madam Chairman: Mr. Manios, for clarification, is that roughly the same kind of time frame as the lists have been available in the past?

Mr. Manios: No. Prior to the changes made under Bill 77, the list was not available until well into early October; there was a week and a half for revisions, approximately, and then the lists became available. Under Bill 77, the list will be available approximately six weeks for anyone to inspect it and to correct it.

Madam Chairman: OK. Ms. Bryden, is that—

Ms. Bryden: Does that apply province-wide?

Mr. Manios: Yes.

Ms. Bryden: It does not affect any of the bigger ones differently. It certainly is a very tight timetable for candidates. With the new legislation coming in so late, it is a problem.

My next question is, has the minister finalized all the new boundaries in the Metro Toronto area for school trustee electors? I know he has done it for the council electors, because he sent me a copy of it, but I have not yet received anything on the school trustee finalization of boundaries and number of trustees to be elected for each school board area.

Hon. Mr. Eakins: As far as our involvement is concerned, I do not know of any problems. Would you enlarge on that, Mr. Manios? That is in the Ministry of Education.

Mr. Manios: The ward boundaries for the purposes of municipal elections in Metro are now complete. An order in council has been issued. In terms of school board election, that change cannot occur until Bill 125 is passed by the Legislature.

Ms. Bryden: Which gives us an added reason for getting this through as early in June as possible. Can you clarify the reason for that delay?

Mr. Manios: Well, it is the Legislature's business to conduct its affairs and make sure that the bills are—

Mr. Mahoney: No. Clarify the reason for—

Ms. Bryden: I know there are sections of this bill that deal with that, but the school boards, certainly, and possible candidates, are still waiting for some sort of indication of what will be forthcoming. Does it depend mainly on the population? It cannot, because the population results will not be in for some time, the voters' lists.

Mr. Manios: Well, under Bill 77, which is the new voter identification system under way right now, the statutory reports will not be available until the middle of July. The enumeration list is sent to the municipal clerks by July 31. The data for the purposes of determining school trustee representation will be available to the municipal clerks and to the school boards at the same time.

Ms. Bryden: The end of July, is that right?

Mr. Manios: Yes, the determinations will be made accordingly.

Ms. Bryden: Yes. In the rest of the province, if there are to be boundary changes, are there some municipalities which have been notified and some which have not, or when will the rest of the province know what the municipal boundaries are?

Hon. Mr. Eakins: I do not know of any boundary changes within the province. The only changes that would have taken place are because of Bill 29 in Metro. As far as I know, there is no problem with those boundaries. They are quite happy with them. There have been public meetings held. Every indication is that they are in place, they are working. Any other adjustments will take place under Bill 125 and the Ministry of Education will be dealing with those. But as far as the ward boundaries are concerned, there is no problem with those. I do not know whether it changes across the province unless there is something internally, but the main ones you are speaking of are because of Bill 29 and the change to the Municipality of Metropolitan Toronto Act.

Ms. Bryden: Yes, because there is an ongoing process for adjusting boundaries which does require your approval, I think.

Hon. Mr. Eakins: That is right. The boundaries—I know there were public meetings held. I have read of them in the paper and, as far as I know, they are quite happy with them. I think they have worked out well.

Ms. Bryden: You are talking about Metro Toronto, are you?

Hon. Mr. Eakins: Yes. The balance of the province would go to the Ontario Municipal Board.

Madam Chairman: I think we are getting a little bit off the topic of Bill 106. I do have a number of questioners.

Ms. Bryden: Just one follow-up question, then. In your letter to the mayors of the six Metro municipalities you did say that a map is either enclosed or will be sent. Could this committee have for our use a copy of that map in some detail of the Metro boundaries that have been approved?

Madam Chairman: I am certain the minister can make available the maps of the boundaries that are available.

Hon. Mr. Eakins: We will be sending out information and charts. Mr. Manios, you might have a comment on that.

Mr. Manios: If the committee wishes information on those, we can provide it.

Madam Chairman: But it does not really relate to Bill 106.

Mr. Manios: No.

Madam Chairman: So if that completes your questions, Ms. Bryden, I will go on to another questioner.

Ms. Bryden: Yes, and if any committee member wishes to get a copy of the map—

Mr. McLean: Did the Association of Municipalities of Ontario, the Rural Ontario Municipal Association and the Organization of Small Urban Municipalities send in briefs, or what input did they have into the legislation?

Hon. Mr. Eakins: Yes, we have regular meetings with AMO. They have made comments to us. It is quite possible that they may want to appear before this committee. In fact, we do have some letters of support. I have not got it here, but AMO has congratulated us on some parts of the bill.

Mr. McCague: I have read that.

Hon. Mr. Eakins: I am glad you did.

Mr. McLean: Some of the parts I did not agree with.

Hon. Mr. Eakins: Listen, I think it is important to work with AMO, and we are going to, because the winners in this are the people across the province. There may be some adjustments to the bill; we are not inflexible. We will see what the decisions are in this.

Mr. McLean: Why would a municipality that does not send out any brochures—if they just go door to door, they do not spend any money at all—why should they have to appoint a chief financial officer and an auditor? They just go door to door and offer their services.

Hon. Mr. Eakins: Today municipal government is often under criticism of being, in some areas of the province, in the hands of developers and so forth. I think it is appropriate that in the small communities, where they will spend maybe nothing or only \$50 or \$100, something like that—anything under \$1,000—all they have to do is file a declaration, just like coming through customs. You simply give a declaration. Mr. Manios can go through that with you.

Mr. McLean: But would the clerk do that without appointing an auditor?

Hon. Mr. Eakins: You do not need an auditor. No, of course not. You need an auditor only if you are a part of the rebate system or if you spend or raise \$20,000 or more, something like that. So for the average person in this province it is not going to go to any great expense—no expense—or interfere, really, with what has taken place.

I think that when you go through the bill you will find there are some misconceptions about that. It is simply going to create a better accountability by filing in the clerk's office, so they can go. I think anyone should be able to know how much money you spent and who donated that money to your campaign.

It is the same as in our provincial and federal campaigns, but I would say that for the great majority in this province it is going to be absolutely no hardship whatsoever, very little in what we are doing at the present time. But certainly no auditors unless you are the recipient of a refund or a cash rebate from the municipality or you have raised or spent \$20,000 or more.

Mr. Mahoney: It is on that exact point. I would just like the minister's comment on the \$20,000 limit. If there is a requirement to submit an audited statement only when you spend more than \$20,000, if you look at the formula that determines what you can spend as a councillor, \$3,500 and 50 cents per elector, you would need 35,000 electors—not residents, but electors—in your ward before you would be required to file an audited statement. It seems to me that is quite high.

The average ward size in my municipality, which is one of the larger municipalities, would be in the neighbourhood of 35,000 to 40,000 population, not electors, so you would not be allowed to spend more than \$20,000 and, therefore, there would be no requirement to file an audited statement.

It seems to me hardly for anyone. I do not know the population ratios in Metro. It may be that the high-density communities in downtown Metro would be allowed to spend more than \$20,000, but I would suspect, as an example, that there are about maybe 20,000 or 25,000 electors in the ward I am most familiar with, in all of them in my city, and therefore no one will be allowed to spend more than \$20,000 and there will be no audited statements.

Have you looked at reducing that \$20,000 down to \$10,000?

Hon. Mr. Eakins: I guess it is a question of what is the magic number and what are the magic dollars? Over \$20,000 raised or spent will require an audited statement. Below that, to \$1,000, will be a detailed unaudited statement.

If the committee feels in its deliberations and through the people who appear before the committee that there is a better way of dealing with that, I would be willing to listen to you on that. I do not know what the magic number is, except that somewhere a decision has to be made, and we arrived at that decision. It looked in order to us, but after the deliberations of the committee I would be willing to listen to you on that. I do not know what the magic—except that we have to arrive at something. Maybe there are a few thousand dollars too much one way or the other.

You see, the people in the rural communities will say, "My gosh, that's generous; we never spend that," but we have to address the bill to all Ontario. I do not know where the magic cutoff is if you say that municipalities of a certain population shall pay this, and under it shall be that.

I think what we want is accountability so that municipal governments are seen to be aboveboard in their fund-raising and their expenditures, and taking, into consideration that we have communities from Metro Toronto and the city of Toronto right down to one of the communities that I represent in Victoria county, which has 65 electors, that is quite a variance.

My mind is open as far as the magic numbers are concerned. We have arrived at what we feel is appropriate, but maybe we are out a few thousand one way or the other, I do not know. You tell me.

Mr. Mahoney: If I can just follow up, I quite agree with the formula for determining spending, \$5,500 plus 50 cents or \$3,500 plus 50 cents, but my point is the requirement to file an audited versus an unaudited statement is the only thing that I see as a problem.

Hon. Mr. Eakins: Well, that again, I would be—

Mr. Mahoney: OK, thank you.

Mr. McCague: I just wonder if the minister has thought through the point that Mr. Mahoney is making; that is, as I get it, unless there are 33,000 people in the ward, audited statements will not be necessary, only, presumably, for the head of council, because your limit is \$3,500 plus 50 cents a head or \$5,500 plus 50 cents a head.

I am not sure if the disclosure comes from the amount of money you have raised or from the amount of money you can raise. Maybe staff would help.

Hon. Mr. Eakins: Yes. Mr. Manios, would you like to explain that? I think that one of the principles of this is that we do not want to put everyone to the cost of an audit where it is not necessary. On the other hand, we do want the accountability. Where you have, as I was saying, under \$20,000, you have a comprehensive unaudited statement. Mr. Manios might want to explain that.

Mr. Manios: That is correct. If you raise or spend less than \$1,000, either—or, you are required to file a statutory declaration. If you raise or spend less than \$20,000, you are required to file a detailed statement of expenses and contributions.

Above \$20,000 expenses or contributions, in addition to the detailed statement, that statement must be audited and submitted to the municipal clerk. So if either you raise \$1,001 or you spend \$1,001, the different system automatically kicks in. It is either—or.

Mr. McCague: There is no limit then on the amount you can raise.

Mr. Manios: No.

Mr. McCague: There is a limit on the amount you can spend.

Mr. Manios: That is correct.

Mr. McCague: So if you raise more than your limit, you still have to file then.

Mr. Manios: Yes.

Mr. McCague: The other thing the minister has mentioned is the fact that he has been told that elections are in the hands of developers, and he may well be right. After this, they could be. They are the ones who are looking around—

Hon. Mr. Eakins: I think I was referring to the impression that sometimes you read in newspapers. I am not saying that. I have never said that, and I do not say that. People will say that this is the impression that they get from certain activities.

We are simply saying that these reforms are simply to give a higher importance, a higher profile, to municipal government. It is open. The contributions and expenditures are open for everyone to see through the clerks' office. I think that is a major step in the right direction.

Mr. McCague: I have one more question. We have had Bill 77 introduced and passed. Now we have Bill 106. Can Bill 77 stand alone?

Hon. Mr. Eakins: How do you mean?

Mr. McCague: If we do not pass Bill 106, for instance, can Bill 77 stand alone?

Mr. Manios: Yes.

Mr. McCague: OK. Now we are being asked to pass Bill 106. If we do that, can it proceed without Bill 125?

Mr. Manios: Yes.

Mr. McCague: So they are all independent.

Mr. Manios: They are interrelated in the broader sense of the term.

Mr. McCague: Right.

Mr. Manios: But they are independent in terms of what they are trying to do.

Mr. McCague: But is there nothing with this Bill 106, if we pass it, that makes Bill 125 an absolute must?

1050

Mr. Manios: It does not directly have an impact on Bill 125.

Mr. McCague: I realize 125 is not your bill, Minister, but I think it is important that they are extendable.

Hon. Mr. Eakins: To my knowledge, they are.

Mr. M. C. Ray: I have a question relating to the audited statements and financial reports. Does one who is not required to file an audited statement have to submit a statutory declaration together with his detailed report, or is the detailed report in the form of a statutory declaration?

Mr. Manios: The simple answer is no. A statutory declaration is filed when that candidate has spent or raised less than \$1,000.

Mr. M. C. Ray: That I understand.

Mr. Manios: It is independent. The financial statement which is required for those candidates who have spent or raised less than \$20,000 will be in a prescribed form. The form will contain an affidavit which the candidate will be attesting to, to ensure that the information is correct to the best of the knowledge of the candidate.

Mr. M. C. Ray: I do not see any special magic in having an audited statement under those circumstances. I would speak against what Mr. Mahoney is suggesting, that we compel so many people to file audited financial statements in circumstances where the public can rely on the disclosure mechanism here, together with the affidavit or the statutory declaration of the candidate. That ought to be sufficient for most municipal campaigns in this province. Only in the very large ones, where there are substantial amounts of money involved, substantial contributions and expenditures, would we necessarily have to put the candidate through the rigour and the expense of an audited financial statement.

I think the draft is well drafted as it stands now, and I would not like to see that kind of rigour put upon most of the candidates in the province.

Mr. Matrundola: I wanted to ask a couple of questions. It says here that all elected representatives will be required to keep their qualifications during the term. I live in North York. Does that mean, for example, that if I wanted to run for office in Etobicoke, I would have to physically move to Etobicoke and live there? Or if I wanted to run in North York and I was living in Markham, I would have to move to North York to be able to run there?

Hon. Mr. Eakins: I think you are asking where you can run for election. You can run wherever you are a qualified elector, in my view. If you are a qualified elector, you can run. That is why sometimes the people from downtown Toronto who own property up in Summerville township often want to run for the council there, and the same up in Muskoka. If you are a qualified elector.

Mr. Matrundola: I have heard, and correct me if I am wrong, that in order for a person to run for councillor or alderman or otherwise, he must reside in that municipality or must own property in that municipality. Which one is correct?

Madam Chairman: Own property.

Mr. Matrundola: Own property. In other words, be a taxpayer but not necessarily be a resident of that municipality.

The other question—

Hon. Mr. Eakins: You are asking about staying on council if you fail to be qualified? I did not quite catch your question, but we are saying in the bill that you must remain qualified in order to serve. If you fail to be a qualified elector, in my view and the view when we put this bill together, you should not be sitting and spending the funds of that community and making policy if you are not a qualified elector.

Mr. Matrundola: In other words, you must be a taxpayer of that municipality where you seek election.

Hon. Mr. Eakins: You must remain as a qualified elector.

Mr. Matrundola: During the time of office.

Hon. Mr. Eakins: I do not think you should suddenly move away, have no interest in that community any more and still be able to direct the policy and the spending of that community.

Mr. Matrundola: OK.

Mr. McLean: What qualifies you to be an elector?

Mr. Manios: Residency in the municipality or ownership or tenancy of land.

Mr. Matrundola: I have another question. When it says, "A voting proxy may not act as a voting proxy for more than one person" except for the immediate family, do I take it that I can have a proxy from Mr. Jones, who is not related to me, and I can have only one, but yet I may receive the proxy from all the members of my family—three, four or five?

Mr. Manios: That is correct. That is in the current legislation.

Mr. Matrundola: Sorry?

Mr. Manios: That provision exists now in the Municipal Elections Act. A proxy is limited to one, but for immediate family members an individual could carry those proxies.

Mr. Matrundola: You can carry all the voting members of the same family?

Mr. Manios: Yes.

Mr. Matrundola: The immediate family is intended to be the wife, husband and children, or can it be parents, sisters, brothers, brothers-in-law, sisters-in-law? What is intended as such?

Mr. Manios: It is limited to spouse, children, grandparents and grandchildren.

Mr. Matrundola: I see. Just one final question please. When a person registers as a candidate, is there any deposit for any person running for municipal office, as when we have to deposit \$200 with the commission in provincial elections?

Hon. Mr. Eakins: No.

Mr. Matrundola: They do not need to. In other words, anybody may go up there, register his name as a candidate and then raise money?

Hon. Mr. Eakins: I think that 10 signatures—we talked about that and we felt that it should be as open, as accessible as possible for anyone to participate in the electoral process. I suppose there are limits and that type of thing which you can put on, but does that really stop people from being a candidate if they want to?

We felt that if we are saying, "Look, you can have a proxy, one proxy for anyone," our purpose here is to create an open system where we encourage people to participate and to vote. I guess the decision we made was simply let us make it as open and accessible for people to be a candidate if they want to. Maybe there are others who feel differently, but that is the decision we arrived at.

Madam Chairman: Thank you. That completes my list of questioners to the minister. We still have time to make a presentation, perhaps clarify some

of the points that have been raised, if the minister would like, and then I am sure there will be questions after that.

Mr. Manios: Could we have a few minutes to set up the projector?

Madam Chairman: Sure.

Mr. Neumann, you would like to make a comment while they set this up?

Mr. Neumann: Just adding a bit of information on the question of the audited versus unaudited, it was our feeling that we did not want to burden the candidates with the cost of an audit. If you recall, provincially the cost of the audit is paid for by the election commission. The provincial candidates are not faced with that burden. Municipally, it could be a considerable cost for someone. So the process that has been devised is one which requires a detailed statement and has quite a stringent test for authenticity. If a person files an incorrect or inaccurate detailed statement, he is then subject to having sworn that it is accurate and even the possibility of criminal prosecution. So we feel there is a sufficient test there and requirement for disclosure.

Madam Chairman: Thank you. That is good clarification.

Mr. M. C. Ray: I just have one comment on the way it is laid out in section 132 of the bill. It might be better to more clearly set out what they mean by a prescribed form, that it does in fact include an affidavit. The heading is a little misleading. It says "Statements, Reports and Statutory Declarations," and they are giving emphasis to something that is of minor importance. The more important element for the kind of control we are speaking of here is the report together with the affidavit, or the report in the form of an affidavit, to cover the situation where expenditures and contributions are between \$1,000 and \$20,000, and then the third situation where they are over \$20,000. I do not know; I think you can lay it out in three separate situations that are clearly identifiable for the people who have to read this.

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Mr. Neumann: The plan is to produce material for all potential candidates running—

Mr. M. C. Ray: It would only be in the form of a regulation, I suppose.

Mr. Neumann: —and material explaining it. There are other pieces of legislation already in effect where the penalties and fines come into play, and they are not in this bill, which will be explained in the material handed out to potential candidates.

Madam Chairman: OK. Mr. Manios, are you all set?

Ms. Noble: Perhaps, actually, I will start. It is my chance.

Madam Chairman: Ms. Noble, the floor is yours.

Mr. McLean: Excuse me, Madam Chairman. Is this the slide copy of the stuff that we have previously read?

Ms. Noble: They are a summary of that, essentially, but those are a little more detailed.

Perhaps I will start. I will provide just a few comments on the background to the bill, and then I will turn it over to Mr. Manios, who is the policy adviser, who has worked on this subject matter for a long time and is very knowledgeable about the details of the bill and of the Municipal Elections Act in general.

The changes being put forward in Bill 106 are in response to a number of problems that have been identified over the years. In previous municipal elections there have been problems, and after each election there is a post-mortem to see how things went and whether changes could be made to improve the election process. The quality of enumeration is always a problem, and we hope now with Bill 77 that we have certainly addressed that problem and we hope that we have solved that problem.

The recount process has been a problem in some cases. The current situation relies on the courts to conduct recounts. It puts the onus on the candidates to pay the cost, even though the credibility of the results is a matter that is in the public interest.

Voter turnout in municipal elections has always been a concern. In 1985 we estimate it was about 43 per cent across the province, which is lower than in provincial elections. There is some feeling that low voter turnout has been because of the complexity of municipal elections and problems of accessibility of polls. Access to voting itself, the physical access, has been a concern because there is nothing in the legislation right now that requires that polls be accessible to the physically disabled.

Voting times have been a concern that has been raised. Right now, advance and regular polls do not have the same hours, and there has been a question about whether the starting time should be earlier than the current 11 o'clock.

Representatives' qualifications, which have been an issue that has already been raised today, are a concern. The question is, should candidates, once elected to municipal office, be required to maintain their qualifications?

Finally, the whole area of campaign financing: There is no legislation that places limits on campaign expenses or that addresses the questions of tax credits or rebates.

Recognizing these problems, back in February 1986 the then Minister of Municipal Affairs set up an Advisory Committee on Municipal Elections. The committee members were Anne Johnston, Gérald Parisien and Mary Erichsen-Brown. This committee conducted a very comprehensive consultation process. They produced an interim report in August 1986, which was circulated widely for comment, and on the basis of the response to the interim report, they produced a final report in February 1987, which the minister then circulated to all municipalities, school boards, public utilities commissions, their associations, other ministries and the general public. Over 200 written submissions were received to the recommendations of the advisory committee.

The changes in Bill 106 were developed on the basis of the recommendations of the advisory committee, as well as on the basis of the responses we received to those recommendations. These changes have been designed to achieve a number of goals, which the minister has mentioned, for

improving the local government electoral process. These include accessibility, making it easier for voters to cast their ballots and making it easier for individuals to run for office, to make the electoral process itself more open, and finally, to ensure that the process itself is fair, easy to operate and produces sound electoral results.

With that as background, I would like to now turn the floor over to Mr. Manios, who will go through the provisions themselves and explain what the changes are.

Mr. Manios: The first and foremost change Bill 106 proposes is voter accessibility. To achieve that, the bill proposes that two mandatory advance polls be in place, instead of the current one, and that voting hours be standardized. Currently, there are different voting hours for the advance polls, 9 a.m. to 8 p.m., with 11 a.m. to 8 p.m. for the regular polls. The bill proposes that those hours be 10 a.m. to 8 p.m. It will certainly enhance accessibility by eliminating confusion in the minds of the electorate when municipal clerks advertise those hours for the purposes of the poll.

Accessibility is also enhanced by expanding the proxy voting provisions. Simply, what the bill attempts to do is eliminate the conditions an elector is required to fulfil in order to give a proxy. For instance, someone needs to have a medical certificate in order to get a proxy, be away on business or on transportation, or be at an institution of higher learning. In the past, those conditions created difficulty for people to exercise their franchise. The advisory committee looked at that issue very carefully and recommended that no condition be necessary except that the elector is unable to vote in a regular or an advance poll. If so, he or she should be able to give someone a proxy and exercise his or her franchise.

The final element in the accessibility is physical accessibility of polls. Right now, there are no requirements for the municipal clerks to provide accessible polls, although many of them go out of their way to ensure that the polls are accessible to physically challenged individuals. In most cases, the advance polls are in that category. The bill proposes that for the purposes of the 1988 elections, all advance polls be accessible to the physically challenged, and that by 1991, all polls be accessible.

The other change, which was mentioned earlier by the minister and Ms. Noble, is the change with respect to the qualifications of elected representatives. Currently, a municipal elected representative can be qualified on election day, but can at any time thereafter leave the municipality and continue to sit on the municipal council. The Education Act, for a number of years, provided that anyone who is elected as a trustee continue to maintain his or her qualifications. Bill 106 simply brings that provision in line with the municipal council.

In 1985, there were a number of problems with the recount process. The advisory committee looked at those problems and concluded that the system is so complex and places tremendous physical and financial burdens on the candidate to prove that an error was committed or the votes were not tallied properly that it felt a new system should be developed. The burden is shifted away from the courts on to the ability of a new process whereby a candidate could request an automatic recount if the spread of the vote between the winning candidate and the runner-up is less than 0.5 votes per poll.

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Another element that the new recount process brings in is that it gives public utilities commissions and school boards the same rights as municipal councils to pass at any time a resolution requesting a recount in the public interest. Municipal councils have that authority currently. It merely extends that authority, that right, to the school boards and the public utilities commissions.

In addition, the new recount process provides a longer time period for an individual to collect documents to support his or her case in case of irregularities. Currently, it is 14 days from the declaration of results. The bill provides a 30-day period.

Finally, all recount decisions are subject to appeal to the Divisional Court. The courts will still have a role to play, but in a limited sphere.

The other change the bill proposes is application at the poll. This was one of the issues that, again, was raised by the advisory committee. In most situations, a group of individuals who are not on the list show up at the poll to vote half an hour before the poll, and since they are not on the list, they are all required to take an application and sign it in the presence of the poll clerk. That creates difficulty and is subject to abuse. Therefore, the bill proposes that for the purposes of the 1988 elections this privilege continue, but for the purposes of the 1991 election and thereafter the privilege be eliminated.

As the minister mentioned earlier, the bill proposes that provisions be in place to regulate campaign contributions and campaign expenses. Limits on campaign contributions are an essential recommendation of the advisory committee, and the advisory committee recommended that contributions be limited to \$750 per candidate from any source. This is, by the way, identical to what exists in the provincial legislation regulating election finances for members of the provincial Legislature.

The bill proposes that the campaign period for the purposes of raising or spending funds be restricted from January 1 of an election year to three months after the polling date. Any individual who is interested in raising funds or spending funds for the purposes of seeking municipal office is required to register during this period. Once he is registered, he can begin a process of collecting and spending funds for his election.

The bill also proposes that limits be placed on campaign expenses. Again, this was a recommendation of the advisory committee, and in its wisdom the advisory committee felt that municipal campaigns in many areas have become a very expensive proposition. In order to enable an individual of limited means to seek municipal office, the committee recommended that limits be placed on the amount of money a candidate can spend for a particular office.

The limits are determined by a formula, and the formula is as follows: For head of council it is \$5,500 plus 50 cents per elector in a municipality. For councillors, trustees and commissioners it is \$3,500 plus 50 cents per elector in the municipality or ward who is entitled to vote for that office. Therefore, for school trustees who are seeking a position in the public school board system, it will be the public school electorate times 50 cents per elector, plus the \$3,500, that would determine the campaign expenses.

I might add that under Bill 106, the clerk is required to advise all candidates within 10 days after polling day of the limits on campaign expenses so that there will be no misunderstanding in the minds of the candidates as to how much he or she is entitled to spend.

In order to provide for financial assistance to the municipal candidates, the bill proposes that an optional tax credit rebate system be in place. That system is modelled on the provincial legislation and it essentially provides for a tax credit or cash reimbursement of up to \$350.

The formula by which the rebate is determined parallels that of the provincial legislation and is essentially as follows: Anyone making a contribution up to \$100 is entitled to receive a 75 per cent rebate. Anyone making a contribution between \$100 and \$400 is entitled to receive \$75 plus 50 per cent of the amount exceeding \$100, but less than \$400. Contributions over \$400 entitle a person to receive \$225 plus 33 per cent of the amount that is in excess of \$400, or \$350, whichever is less.

How is this system to be administered? The administration of the tax credit rebate system as proposed by the bill falls in the hands of the Commission on Election Finances and the municipal clerk. The Commission on Election Finances has primary responsibility in the administration of this system; the municipal clerk has a secondary responsibility.

The costs of the system are borne by the jurisdiction involved. For instance, if municipality X opts into the system, that municipality is responsible for the total cost of the system. The commission costs are borne by the province.

One of the cornerstones of Bill 106 is the requirement of mandatory disclosure and reporting of a candidate's contributions and expenses. There are basically two systems for disclosure and reporting.

Under a nontax-credit rebate system, a candidate is required to file within six months from polling date with the municipal clerk a statutory declaration if he or she has spent less than \$1,000 or raised less than \$1,000; a detailed report if he or she has raised more than \$1,000 and less than \$20,000 in contributions or expenses; and if that candidate has raised more than \$20,000 or spent more than \$20,000, in addition to the detailed financial statement he or she is required to have an audited statement.

Disclosure under the tax credit rebate system is similar; namely, within six months of the polling date, the candidate has to file a report with the Commission on Election Finances and the municipal clerk. The only difference between the two systems is that the financial statement must be audited.

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Bill 106 provides a mechanism for the public to know who has contributed to whom and how much a candidate spends, and that is through the mandatory disclosure and reporting.

The question has been posed how you enforce this system. The primary responsibility lies with the candidate. The candidate is required to disclose and report. Once the candidate files his statement or report, those statements are open to public scrutiny.

The electors, the Attorney General (Mr. Scott) and the courts will have a role in enforcement with respect to the infraction of the disclosure and reporting requirements. In addition, there are a number of penalties the bill imposes. Some of them are automatic and others the result of a court action. Finally, for the tax credit rebate system, there is the Commission on Election Finances, which has an added investigative role in enforcing that part of the legislation.

As I mentioned, some of the penalties are automatic and others are the result of a court action. They essentially provide that if a candidate exceeds in expenses, or receives more than \$750 from any source or fails to file within the prescribed time, that candidate is subject to fines and disqualification from office. Individuals who contravene the provisions of the act are fined up to \$1,000. For corporations and trade unions, the penalty is \$10,000.

If a candidate exceeds the limit on expenses or fails to file within the prescribed time, he or she is disqualified from office for a period of up to and including the next regular election. Candidates who exceed the limit on expenses are also subject to a fine in an amount equal to the expenses by which they exceeded.

For the purpose of the 1988 elections, the bill provides a mechanism for individuals to come under the purview of the law, and it sets out the procedure by which a municipality, a school board or a public utility commission may adopt the tax credit system.

There are three elements. The legislation is effective as of January 1. Any person who has raised or spent money for the purposes of the November election must register with the municipal clerk within 60 days of the enactment of the legislation. Similarly, if a municipality, school board or public utility commission wishes to adopt an optional tax credit system, the decision must be made within 60 days of the enactment of the legislation.

Mr. Black: I would like to get a clarification on the question of applications made at the poll, which is going to continue to be valid for 1988 but not for 1991. What is the latest date at which someone can take up residence or acquire property in a municipality and become eligible to cast a ballot in the 1991 election?

Mr. Manios: Any time between September 6 and October 17 an individual can move into the municipality and could be entitled to vote in that municipality, up to October 17, which is the last day of the qualification period.

Mr. Black: I guess my question then is to the minister. What, in fact, we are doing is disenfranchising people who move to a municipality for a further three-year period. Was any consideration given to the possibility of having some mechanism in place by which people who acquire property or move into a municipality up to election day can become eligible to cast a ballot?

Hon. Mr. Eakins: That is a good question. We want to make sure that everyone possible is on the list and qualified to be an elector. It might be something that will come out of the committee that we might look at. Mr. Manios, under the present regulations, what is the latest that one can be on the list and vote?

Mr. Manios: The Municipal Elections Act currently prescribes the

qualification period, which is a much shorter period than what is in Bill 77. It is any time during that period, which is essentially—

Hon. Mr. Eakins: Up to when?

Mr. Manios: September 6. The qualification period in the current legislation is the first Monday in September in an election year, ending on a Wednesday in October. If you do not qualify during that period, say, if you come in after that Wednesday in October that precedes polling day by 19 days, then you are not entitled to vote in that municipality.

The qualification period as set out in Bill 77 parallels this provision. It is any time during the qualification period, or if your name is on the preliminary list of electors, you are entitled to vote. If you are not on the preliminary list of electors, you make a revision to the clerk and you can get on the list. If for some reason you are unable to make an application to the clerk to have your name entered on the list, any time up to polling day you can get a certificate from the clerk and be entitled to vote, provided that you show the clerk that you were qualified during the qualification period.

The new system is no different from what exists right now.

Hon. Mr. Eakins: There would have to be a cutoff date some time. Also, if we are going to have a complete list of electors so that one who is a part of the rebate system will want to know how many voters are within that municipality and what his total spending can be, since he is not over the limit, he has to have some close calculation of the number of people.

It is a good question. We do not want to disenfranchise anybody, but somewhere there has to be a cutoff date of those who are qualified to vote. I suppose it is difficult to say what date that should be, but somewhere there has to be a particular time at which the list is complete.

Mr. Black: Can I follow up a little bit?

Hon. Mr. Eakins: Go ahead.

Mr. Black: I possibly am not understanding what I am hearing.

Let us say I moved from North Bay to Mississauga and purchased a home and that deal closed some time in late October. Under the present legislation, I would not be eligible to vote in that municipal election which is upcoming in November. Is that correct?

Mr. Manios: Yes.

Mr. Black: If I move into that same situation, if I relocate from North Bay to Mississauga in a provincial election, five days prior to the election, I can become eligible as a voter.

Mr. Manios: Yes, because there is a difference. Municipalities are treated as units, as exclusive jurisdictions. For the purposes of provincial elections, the whole province is a residency. For the purposes of a municipality, it is the residency or ownership or tenancy of land within that particular municipality during the qualification period which is prescribed by law.

So there is a difference between the two systems. If you move from

municipality X to municipality Y and you happen to make that move during the qualification period, you are entitled to vote in the municipality you moved to. But if you miss the qualification for some reason, you are unable to vote. That is the current legislation, and Bill 77, which was passed by the Legislature, simply continues that framework.

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Mr. Black: I wonder if some of the more experienced municipal politicians in the room could tell me whether that has been a problem or concern in the past, or am I raising an issue that is not really an issue?

Madam Chairman: I will respond to that, as someone who represents a community which is very much a fluid situation with a lot of movement taking place. It has not been a real problem. As a matter of fact, I found it more of a problem in the provincial election, with voters coming in from other provinces who were not qualified to vote, than I had ever found it in the past in the municipal sector.

Hon. Mr. Eakins: In my experience, it has never been raised to me before. It is a good question but it has not been raised to me, and I do not know to what extent it is a problem.

Mr. Black: I do not know whether this is an appropriate time, but it would seem to me, if we are really interested in ensuring that people have their franchise if possible, that with today's modern technology, it should be possible for someone to buy a home in Mississauga on the day before election day, have the deal close and have the clerk, who has to be aware of that, certify this person as eligible to cast a ballot.

Municipal governments will be making decisions that will have a significant impact on that person, not on their income but certainly on how much money they have to spend and how those dollars are spent. The educational system will continue to function for the next three years. As I say, this probably is not the appropriate time.

Madam Chairman: You want your elector to be knowledgeable. You also want your candidates to have access to the elector to provide them with information about their capabilities as a candidate. In that time frame, that is impossible from both sides.

Hon. Mr. Eakins: We might want to discuss it, anyway.

Madam Chairman: I have a number of people on the list. Ms. Bryden?

Mr. Mahoney: I thought I was next.

Madam Chairman: I am sorry. Yes. I had you checked off and then we went back to Mr. Black.

Mr. Mahoney: Just one question. I do not mean to be picky, but you have said the maximum cash rebate is \$350, the system if adopted by the council, and my calculations show that you could never reach that. If you get \$225 plus one third of the excess over \$400, one third of the excess to a maximum contribution of \$750 would be a third of \$350, which is \$116.66 which is \$341.66. Maybe we should be setting the limit at \$340.

Ms. Noble: Perhaps I can answer that. The trick is that, in fact, a

contributor can contribute to more than one candidate. So a single contributor can contribute a lot of money but can only contribute \$750 to each candidate.

Mr. Mahoney: And they can still only get a maximum return of \$350, no matter how many candidates they support?

Ms Noble: That is right. We have calculated that a person would have to contribute \$816 to get the maximum \$350 rebate. That would mean that a contributor would have to contribute to more than one candidate to get the maximum.

Mr. Black: So Mr. McCague would still be able to contribute to a Liberal candidate in the municipal election.

Mr. Mahoney: Of course, in our community, we do not have partisan candidates in municipal politics and, hopefully, never will, Mr. Black.

That is new information and I was not aware of it. Perhaps other members have some comments, but maybe you could explain more of the rationale as to why the total is limited to the amount rather than to the candidate. I assumed that if I were running municipally and you contributed \$750 to my campaign, you would get \$350 and if you contributed \$750 to Ken's campaign, you would get \$350 as well.

Ms. Noble: That is certainly not the intention of the legislation.

Mr. Manios: If I may add, this system is part of the provincial. Now in the provincial, in order to receive the maximum credit, you have to contribute, I believe, \$1,700 to more than one candidate. The same principles are applied to this system. The idea is to enable an individual to contribute to any candidate he or she wishes, but the maximum rebate to which he or she is entitled is \$350.

Mr. Mahoney: I guess one difference in the provincial is that you can contribute \$750 to the campaign and \$750 to the party, and the party—I do not know what party would do it—could then give the \$750 back to the candidate, right? In essence, you could contribute \$1,500 provincially. You can direct it to one candidate, either given directly or directed through the party.

Mr. Manios: Well, my colleagues from the Commission on Election Finances perhaps could elaborate this afternoon on that issue.

Ms. Bryden: I am concerned about the proxy voting details. Am I correct that there has been really no change, except for wiping out the prerequisites, but no change in the way you get a proxy?

Mr. Manios: That is correct.

Ms. Bryden: Does it not create problems then? I think the principle of proxy voting for people who cannot get to the polls for legitimate reasons is a good one, but you cannot apply for a proxy until after nomination day and up to and including 5 p.m. on voting day. That is a very short period, but I suppose you have to have the list available before you can decide who is eligible.

Mr. Manios: Before nomination day, you do not know who are the candidates, and therefore the proxies are meaningless. Say I am the person

giving a proxy. Perhaps I want to direct the proxy to vote for a particular candidate. Therefore, you can get the proxy only after nomination day.

Ms. Bryden: That is how many days before?

Mr. Manios: That is 28 days before polling day, so an individual will have 28 days to get a proxy. He or she simply gets a form from the municipal clerk, fills it out and gives it to the person who will exercise the proxy. That individual goes before the clerk, gets the certificate and exercises the proxy in an advance or regular poll.

Hon. Mr. Eakins: I think it is fair to say, if I might, that this is providing more time than ever before. Is that not right, Mr. Manios? We are now providing more time than there normally would have been with the 28 days.

Mr. Manios: Yes.

Hon. Mr. Eakins: One of the reasons, along with other reasons, it is 28 days instead of 21 is that it is going to give a longer period to do that. If it were 21, then it would reduce that even more.

Ms. Bryden: One further point, though: In a big city, the municipal clerk is downtown and there are two million people scattered around who will have to get down to the municipal clerk with the proxy forms. You do not necessarily have one proxy per voter. In federal and provincial, you have deputy returning officers accessible within the riding to a fairly small group.

Is there any way of overcoming that problem? Can a candidate, for example, collect together several applications for proxy and send a qualified voter down to have them processed? Could the person applying for the proxy just simply sign a form saying he wishes one? Can there be some mechanism set up for getting to the city clerk and getting proxies approved and getting them back to the voter? Because you are not going to get a lot of voters going down to the city clerk, presumably in office hours, to get those.

The other thing is that up until 5 p.m. on voting day you can get a proxy, but you still have to get the approval of the city clerk. How many people are going to be able to get down to the city clerk between 5 p.m. and 8 p.m.? If it could be done by the candidate collecting together proxies, people having suitably signed forms, he could then take them all down between 5 and 6 or 6 and 7.

Hon. Mr. Eakins: I guess there are problems when you live in Metro Toronto, but the elections have to extend beyond it into the great ridings of Simcoe East and Simcoe West, where the clerk is, I suppose, fairly accessible. George, does the clerk have some discretion after the fact if people live in the great Metro area?

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Mr. Manios: The role of the clerk is simply to provide the proxy form to the elector and, when that form is completed, to issue a certificate verifying the information on that, that the individuals are electors. Therefore, someone has to make a trip to the city hall to get a certificate. If I am the person who wishes to give Ms. Noble my proxy, I can simply get the form and at my convenience I can fill it out. I can get it by mail, simply phone the clerk, give him my address and say, "Could you send me a form?" He can put it in the mail. I get the form, complete the form, give it to Ms.

Noble and she will have to get the certificate from the clerk in order for it to be valid. Otherwise, that is not valid.

Hon. Mr. Eakins: The two million people Ms. Bryden speaks of are divided among six clerks in the greater Metro area. There are six municipalities and therefore there are six clerks. It is not as if the two million are all going to have to descend on the Metro clerk.

Ms. Bryden: Well, there are 800,000 or 900,000 in the city of Toronto. What you say clarifies it somewhat, but what is happening between 5 p.m. and 8 p.m. on election day? Is the clerk available?

Mr. Manios: He is available, but do not forget that the clerk is running the election and therefore has responsibility for the overall administration. The cutoff is that if you are unable to get your proxy by 5 p.m., between 5 and 8 he has to deal with a number of issues and therefore he will be busy. My suggestion is that if people want to exercise that right through a proxy, to get the proxy early to ensure that there are no difficulties in getting it.

Ms. Bryden: I think it should be clarified in the instructions to electors as to how to get it and what are the cutoff hours. I would like to see the cutoff hours later than 5 p.m., with the clerk designating somebody at city hall to approve them. Between 5 and 8 is when people are going to discover they are not able to get there for some reason or other, sent out of town or something like that.

Madam Chairman: If I could just add a little piece of information, the Association of Municipal Clerks and Treasurers of Ontario will appear before us on the 19th, so I think clarification of their perception in respect to some of these things will be worth getting.

I have a number of other questioners, and we also have a vote in the Legislature coming up. We will continue until we are called in to vote, but we will come back at 3:30 as scheduled and complete the list of questions to Mr. Manios and Ms. Noble. Then we will go on with the election commission, if that is agreeable to all members.

Ms. Bryden: They do not always have a recorded vote and I think some of us may want to be there for a nonrecorded vote. Perhaps we should adjourn at 11:55.

Madam Chairman: OK, that is fine. We can plan to adjourn at 11:55, but I do not think we are going to be through my list. I would appreciate it if Mr. Manios and Ms. Noble would come back so we could finish up the questions and then go on to the next agenda item as listed.

Hon. Mr. Eakins: I just want to indicate that Mr. Neumann will be here on my behalf this afternoon and for some of the other hearings also.

Madam Chairman: Thank you. Does that complete your questioning, Ms. Bryden?

Ms. Bryden: Yes.

Mr. McCague: The polling time is regardless of time zones or daylight saving or whatever. It is 10 to 8 on your own clock, is it?

Hon. Mr. Eakins: Are you thinking of the Fort Frances area, where the time has changed? It is local time.

Mr. McCague: Maybe I can get my answer. Are there any municipalities with one poll?

Hon. Mr. Eakins: The village of Sturgeon Point in Victoria county I doubt would have more than one poll.

Mr. McCague: What are you going to do with that half vote difference if you have a recount?

Hon. Mr. Eakins: That is something we are looking at.

Madam Chairman: That is something the committee might want to consider.

Mr. McCague: I have been bringing it to the minister's attention for about three months and he has not given me an answer yet.

Hon. Mr. Eakins: I wanted to leave something for the committee.

Mr. McCague: Oh no, you cannot duck out that way.

Hon. Mr. Eakins: I really could not say whether they have one poll or two.

Mr. McCague: Maybe staff, in the meantime, might look at a minimum difference. I would think that even if there were 200 electors, a difference of 10 might trigger a recount. There should be a minimum in there.

Mr. Mahoney: They will probably vote with a show of hands.

Hon. Mr. Eakins: Mr. McCague, I would be flexible. If you can come up with—

Mr. McCague: I am not going to mess with it. We have lots of legal staff here, but I do not want my half-assed question to make the difference.

Hon. Mr. Eakins: Your opinion is important.

Mr. McCague: On the application at the poll, why are you instituting that for 1991 but not for 1988?

Hon. Mr. Eakins: I feel that what we are trying to do is give them the opportunity this time, but by the 1991 election, the full process will have taken place and they will be aware of the many changes. We hope that by that time everyone will be aware of the procedures and the times of getting on the list. We feel that at that time it will relieve the clerks of many of the responsibilities so that they can run the election.

There are longer periods of time to become qualified, and I think that is very important. With our new system of enumeration, we are hoping that we can get people more interested in qualifying themselves and that it will be necessary.

Mr. McCague: With respect, I am not sure, but I think you may have the rationale backwards. What you are saying is that the present system of swearing in at the polls disappears for 1991 but does not disappear for 1988. My contention is that there is more chance for mass confusion in 1988 than

there is in 1991. Therefore, why would we not apply a relaxed kind of voting privilege to 1988? If it is good enough for 1991, when I do not think you will have nearly as many problems, why would we not do it for 1988?

Hon. Mr. Eakins: What we are trying to do is streamline the process. Do you have any further comment, Mr. Manios? I think we are just trying to streamline the process, make it better. This year they are familiar with the process, and we hope that by 1991 we will be able to do otherwise.

Mr. Manios: Also, the new voter identification system will strengthen the process by ensuring that the lists are fairly accurate. I might add that this was the recommendation of the advisory committee. The advisory committee felt that for the purposes of the 1988 election, that privilege should continue, but its recommendation in the long term was that the privilege should be eliminated. The new system of enumeration will provide a better and more accurate list of electors, and the public will be more aware of its new role in this process.

Mr. McCague: I am sorry that I misunderstood you then. You are saying that in 1991, if you get left off the list and you go into the poll at seven o'clock at night, you cannot get a vote.

Mr. Manios: Yes, that is right.

Mr. McCague: OK, I misunderstood you on that one. I am sorry. I thought it was the other way around.

Hon. Mr. Eakins: No, no.

Mr. McCague: On the people that you had up on the board, who are included under trustees?

Mr. Manios: All persons seeking school board office: public school trustees, separate school trustees, French-language trustees and other minority-language trustees.

Mr. McCague: What about the police village of Angus?

Mr. Manios: It is included under the municipality. The police village of Angus will continue to hold elections as it has done in previous years.

Mr. McCague: They have the same election expenses setup as—

Mr. Manios: As the municipality.

Mr. McCague: —everybody else.

Mr. Manios: Yes, as everybody else.

Mr. McCague: Thank you.

Madam Chairman: It is now pretty close to five minutes to noon, so I propose that we adjourn and come back. We have a number of other people on the list. We will reconvene here at 3:30 this afternoon.

The committee recessed at 11:52 p.m.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT

THURSDAY, MAY 12, 1988

Afternoon Sitting



STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

VICE-CHAIRMAN: Mahoney, Steven W. (Mississauga West L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Bryden, Marion (Beaches-Woodbine NDP)

Charlton, Brian A. (Hamilton Mountain NDP)

Daigeler, Hans (Nepean L)

Marland, Margaret (Mississauga South PC)

Matrundola, Gino (Willowdale L)

McLean, Allan K. (Simcoe East PC)

Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Clerk: Deller, Deborah

Staff:

Smith, Cynthia M., Chief, Legislative Research Service

Witnesses:

From the Commission on Election Finances:

Kushner, Gordon H., Executive Director

From the Ministry of Municipal Affairs:

Neumann, David E., Parliamentary Assistant to the Minister of Municipal
Affairs (Brantford L)

Manios, George, Policy Adviser, Organization Policy Section

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday, May 12, 1988

The committee resumed at 3:30 p.m. in room 228.

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT

Consideration of Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

Madam Chairman: I think we will proceed with the Commission on Election Finances. They are going to be here throughout the process, so we will have more opportunities to ask questions of them as we go on. I believe we have Gordon Kushner. Jean Ouellett and Edward W. Allen are here from the commission. They have also provided us with written briefs. Those are being circulated now, and everybody will have them.

Welcome, gentlemen, and the floor is yours.

COMMISSION ON ELECTION FINANCES

Mr. Kushner: It would have been the preference of the chairman of the commission to be here this afternoon, but prior holiday plans have annulled those ideas. Before he left, as a matter of fact, the last message he gave me was to be sure that, if there was going to be a committee, that we appear before it. Not only the commission, but Mr. MacDonald himself, has a very keen interest in all politics at all levels, and our appearance here is partly stemming from that.

Because the committee members have not had a chance to read what has been given to them in advance, I will, unfortunately, have to read from it, but I will try to leave off sections which are more general or more historical and try to get to the substance of what this committee is dealing with.

Basically, the point I will be emphasizing today is the experience that the Commission on Election Finances has had over the past 13 years in ensuring compliance with provincial election legislation, as well as mentioning to some extent our empathy for candidates and volunteers in the political process and recognizing also the necessity for limits on contribution expenses.

Then I would like to go on to identify and comment on some problems there may be with the new legislation, the whole idea of how we administratively deal with something that is new and what we can learn from it. As well, at the end of my presentation, I would like to go over one very important amendment we think is required.

Moving on then, historically the Commission on Election Finances was created in 1975, and in that 13-year history there have only been three cases that have gone to prosecution, which is a very low number when we have received several thousand returns in that 13-year period. Upon analysis of the factors contributing to that pleasant state of affairs, the experience should not be surprising.

First, the commission staff has always been accessible to anyone in the political process, and I think probably any members of the committee here can attest to that. We have always been available when help has been needed. We have also been very willing to hold public information seminars for any willing group of volunteers. Last, the commission has taken a friendly but firm approach in dealing with apparent contraventions. The commission makes every attempt to have an apparent contravention corrected. In the case of minor corrections, a simple reprimand has been issued in the past and only in those cases of severe uncorrectable contraventions has there been prosecution. Notwithstanding all that, about 75 per cent of the returns that come in are modified in some way or another from the original filing.

The commission recognizes the very important role of the volunteer and the problems and frustrations facing those volunteers. Notwithstanding that, the commission also places a heavy emphasis on accurate and timely reporting and does not accept partial or incomplete returns. To whatever extent it is possible, the commission will guide volunteers in achieving an accurate filing.

From the experience of the past 13 years, the commission has come to appreciate and fully support the concept of limitations on campaign contributions and expenses. While causing additional work for volunteers in recording and controlling revenue and expenses, this added burden is more than offset by making the political process more accessible to any citizen who may wish to seek office. It is a logical progression for controls to be introduced at the local election level.

The municipal election process will now be on a similar basis as federal and provincial elections, and while there are some conceptual differences, such as partial public funding of expenses and subsidies for auditors, the thrust of the legislation is similar. The commission is fully supportive and will be a willing participant in the proposed legislation.

There are some administrative considerations. The proposed legislation is relatively straightforward and uncomplicated. The act copies the concepts and, in many cases, the exact wording of the Election Finances Act. In matters of administration and enforcement, however, we feel there will be different and distinct problems.

The provincial election process is actually made up of a well-developed party structure with strong provincial party offices and established local constituency associations. Candidates are nominated and supported by local riding associations. In fact, it is very normal for local riding association executives to be the key people on the candidate's campaign committee. These strong links have maintained stability in the process and have greatly reduced any compliance problems.

However, the municipal election process will be different. There are no permanent organization structures. There are no parties to assist in compliance and to educate volunteers. All candidates are independent candidates, each with unique organization structures, platforms, ideals and, fortunately, understanding and willingness to comply with the legislation.

We support the strong penalty provisions, including prohibition from seeking office in the next election and the invalidity of tax credit receipts.

Each candidate is running in a local election far removed from central government. We feel that as much as possible a strong link should be

maintained with the local clerks for registration, information and filing. Even public documents should be available at the local clerk's office and not at the commission's central office. The elections are local and any interest will be local.

In contemplation of early passage of the proposed legislation, I have developed a framework for an action plan for the registration of candidates and the approval of returns. This action plan has provision for staff and space deployment and for lines of responsibility. The proposed plan should be jointly accepted by the minister and the commission's chairman.

There should be an appreciation that during the first election under the proposed legislation, there will be problems. The process will be experimental and will allow flexibility to test procedures and to error-proof the system. However, with the special project team that will be proposed, it will be an enriching and educational experience for both staff and candidates and their volunteers.

I would like to spend a few moments going over some proposed amendments, which are very technical. I think maybe I will discuss them in very general terms, because the hard copy is in front of you.

We have a concern that since the commission is responsible for enforcement of part III of the act, there should be some specific wording in the proposed legislation that enables the commission to have the power to publish guidelines, which really only enhance and further clarify the act. They are not meant to go beyond the act. We suggest that specific wording be chosen to reflect those powers, similar to those stated in our own act, which are in subsections 4(4) and 4(5).

In addition, the commission has always been plagued with questions, apparent contraventions and challenges to the requirement of identification of the sponsor on advertising. We anticipate there will be similar problems at the municipal level. In order to minimize those problems, we suggest your subsection 152(5) be modified so that an all-inclusive wording is used, in other words, so that all material that is heard, seen or read should be identified.

Our greatest concern, however, is that the legislation has inadvertently created a loophole. Under section 163, loan guarantees that are enforced by a lending institution create a potential for circumventing the contribution limits. A guarantor who has been called upon by the bank to pay a loan would not be considered to be in an excess contribution position because of this section. Guaranteeing a bank loan should be considered a contribution. Without a party structure, there is considerable potential for debt-funded deficits, and we suggest that guarantors be restricted to the candidate and spouse, as they have no limit on contributions.

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Finally, in section 174, there is access to public documents. As I said earlier, it would be more practical and more useful to have those documents displayed in the office of the local clerk.

In conclusion, I wish to repeat that the commission is fully supportive of the proposed legislation and is ready to assist in its administration. With this support and assistance in using a special project team made up of staff from the ministry and from the commission, we feel administrative and enforcement problems will be minimal.

Ms. Bryden: I appreciate Mr. Kushner's bringing this brief briefly before us, pointing out the similarities and differences and also pointing out some areas where we perhaps should consider amendments. I think we should ask legislative counsel and/or our researcher to look into those areas and perhaps give us a bit more background on whether we should consider an amendment. Certainly, section 163 and the loan guarantees providing a possible loophole is one we should be very conscious of.

Am I correct that one of the few prosecutions that have originated under this provincial act was related to a candidate taking out a loan and then paying it off and going beyond the guideline on total contributions?

Mr. Kushner: That was indirectly involved. It was as a result of an overexpenditure of a category of expenses that this arose, but that is basically how that was funded. The candidate, who was an independent candidate, funded that overexpenditure personally out of his own resources far in excess of his contribution limit.

Ms. Bryden: Is that possible under this act we are looking at today?

Mr. Kushner: It is very possible for this to occur.

Ms. Bryden: The loophole?

Mr. Kushner: Yes.

Ms. Bryden: Perhaps we could consider closing that loophole or at least look at the implications of the kind of legislation we would need.

As you say, it is more difficult to control contributions, expenditures and advertising when you do not have registered parties participating at the local level in all cases or even in very many cases. We have to be careful that our legislation does not permit individual candidates to bypass the intent of the legislation.

There are two areas I would like to ask you to comment on. One is the subsidies to auditors, which under the provincial act are provided to candidates in the reporting work of their expenses and receipts. It can be a fairly onerous job, I know. In effect, the province is picking up a standard fee, which I think covers the fees that the auditors generally charge for an audited candidate. Do you think that should be considered for this legislation? Has it been found necessary at the provincial level to avoid a fairly heavy burden on candidates? Would the burden be the same under this law?

Mr. Kushner: The maximum audit that the province pays for a candidate is \$800 per candidate, which is the maximum. The vast majority of the invoices that come in are for \$800. There are some substantially above that and there are some very small audit fees charged, but most of them come in at around \$800.

I have a personal feeling in that regard. I am a chartered accountant and I feel there may be more willingness from the profession to audit candidates' accounts if they are at least assured of some minimum audit fee. Otherwise, there may be a tendency to ask for a retainer, which is done in the profession but not that often.

I think you are asking candidates to comply with the section of the act which requires an audit; yet you are not compensating them for that requirement. It is a personal preference, as I said, but there probably should be some audit fee subsidy considered. I do not think the Commission on Election Finances shares that opinion necessarily.

Ms. Bryden: Could we ask the parliamentary assistant to look into that question, perhaps discuss it with the minister and bring back their thoughts on the idea of some sort of subsidy where audits are required in the act?

Mr. Neumann: My direction from the minister is to listen to all of the suggestions given and discuss them with him. As you heard from him this morning, he is fairly open to suggestions for changes, provided the bill is not held up, and willing to consider any positive suggestions. With regard to the audit, the reason we did not is that the municipal scene is quite different from the provincial. There are quite large numbers of candidates and we restricted the requirement for auditing to campaign expenditures in excess of \$20,000. The feeling is that, if a candidate is spending at that level, he can afford to pay for the audit.

Also, it is required for people who are in a system where the municipality has opted for the tax credit. In that case, the candidate has the advantage of the tax credit to raise funding and therefore should be in better shape to pay an auditor. Those were the reasons. Also, this is the first run through for this legislation and we did not want to have a big requirement for auditing right across the province when it has not been the practice at the municipal level and there are thousands of positions up for election and many thousands of candidates running for office across the province.

Ms. Bryden: I do not notice many provincial candidates forgoing the audit subsidy. I think all candidates feel the needs are very great. They never can raise as much money as they would like or even as the limits will allow. If it is subsidizable at the provincial level, I think it should be at the municipal level in fairness.

Mr. Neumann: If I might add, with respect to the other suggestions for amendments put forth by the representative for the commission, the commission has been very supportive all the way along through the process of developing the legislation with the staff of the ministry. These amendments are ones that have come up subsequent to the drafting of the bill. A lot of their suggestions were incorporated into the bill in the first instance and we will certainly be looking into the viability of the amendments proposed and coming back with specific wording.

Ms. Bryden: Just one final minor question. Does the definition of "financial institution" include credit unions, caisses populaires and so on, as to what you can borrow from? A candidate can only borrow from "a bank or other recognized lending institution in Ontario."

Mr. Kushner: Certainly, under our legislation it includes trust companies and credit unions.

Ms. Bryden: But is it spelled out?

Madam Chairman: The legislation, as Mr. Manios has just clarified, is similar.

Ms. Bryden: I think that should be made very clear.

Mr. Kushner: Yes. I think the wording, "other recognized lending institution," is inclusive.

Madam Chairman: It is the same wording.

Mr. Black: I appreciate the concern related to loans and guarantors on loans. However, I also have another concern and I wonder if you might comment on this. If the guarantor was limited to either the candidate or his or her spouse, as you suggest, that could possibly mean some candidates would not be able to borrow funds. The candidates who might be most in need of taking a bank loan in order to finance a campaign might be prevented because they could not get a loan on the basis of their own signature. Has that been given any thought?

Mr. Kushner: We have thought about it. We felt that, with the limitation on expenses, there really is not going to be that much money required and eventually the candidates are all going to have to raise funds to repay that debt in any event. It may mean they are going to have to start collecting funds earlier to start paying their expenses. They will have to organize their affairs more carefully and prepare sensible and cautious budgets, keeping in mind the expense limits. It may narrow the playing field slightly, but we do not think that is a serious problem.

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Mr. Black: I do not know whether it could be a serious problem or not, but I think it has the potential to be problem, that you could eliminate some people who might be excellent candidates but simply do not have the financial wherewithal or the line of credit to go to a bank and on their own signature or that of their spouse borrow the amount of money that might be necessary to finance the early stages of a campaign.

Mr. Kushner: My personal feeling is, though, that any candidate who has the ambition to seek office will probably have some net worth that he or she can use as collateral, whether it be equity in a home or a car or a boat or a cottage, or potential earning power.

People who will be running that sort of campaign are going to be serious anyway in order to pay suppliers, other than on a cash-on-delivery basis, and have to have some credibility in the community. Personally, I do not think it is going to be narrowing the playing field. There are obviously going to be some exceptions.

Madam Chairman: Does that complete your question, Mr. Black?

Mr. Black: Yes, at this time it does.

Mr. Neumann: The concern you raised about the guarantee of the loan is one which is important because of the fact that it could be used as a possible way of getting around the campaign contribution limit.

If a person, for example, guaranteed a loan for \$10,000 and then when the election was all over, the candidate did not go through with paying the loan and it fell to the guarantor and the guarantor said, "Well, I will pick it up," then in effect the guarantor is making a \$10,000 contribution. The election is all over, the statement has been filed and all the guarantor has done is said, "I am living up to my guarantee of the loan."

I think that is the point that is being raised here, that under the legislation any debt goes to the candidate and any surplus goes to the candidate. We have to find a way. It might be that in addition to a candidate and spouse, we could authorize possibly—I am just thinking off the cuff here—the combination of guarantors, no one of whom could exceed the guarantee of \$750. In that way, it would get around a potential loophole if that occurs.

Mr. Kushner: Yes. I am aware that financial institutions accept limited guarantees. That is probably another solution, provided that one contributed—

Mr. Neumann: A collective of guarantors.

Mr. Kushner: Yes, and had not in some other way contributed cash, for instance, but still remaining within the \$750 limit. It could be done.

Mr. McLean: Did you have any input into this proposed legislation?

Mr. Kushner: The Commission on Election Finances had considerable contact with the staff at the ministry.

Mr. McLean: Why now would you be proposing some amendments if you had input into it? Did you deal with these types of recommendations and amendments when you were proposing your recommendations to the ministry?

Mr. Kushner: We proposed a number of recommendations. We are very pleased that many of them were accepted. This is one that somehow fell between the cracks, but has also been causing some problems at the provincial election level. We thought that rather than have another set of problems at the municipal level, we would head it off a little earlier. It only arises, incidentally, with independent candidates, which all of these will be.

Mr. McLean: You did not comment on conflict-of-interest at all. Perhaps that is not in your jurisdiction, but I was wondering if you have any recommendations on that section?

Mr. Kushner: Conflict-of-interest legislation?

Mr. McLean: Yes.

Mr. Kushner: No.

Mr. McLean: Not likely. No. What type of a fee would you be looking at as a minimum? Would it depend on the size of the municipality, the amount of voters, or how would you be looking at it? Is an audit fee subsidy considered, a minimum? What would you be looking at for a minimum?

Mr. Kushner: At the provincial level, as I said earlier, it is \$800. With a lower spending and contribution limit, it follows that the transactions should be smaller and fewer than that fee would cover. On the other hand, the experience in dealing with independent candidates is that sometimes they do not always keep very good records and the audit fee could be higher just because of the inadequacy of the performance of the candidate's chief financial officer.

It is difficult to judge what would be an adequate fee. I can only comment on our experience. Based on the number of invoices that come in at precisely \$800, which is our subsidy, I suspect the subsidy should be higher

even at the provincial level. We have not received formal presentation from the Institute of Chartered Accountants of Ontario, but individual auditors have hinted that perhaps the subsidy should be higher.

Mr. Matrundola: Do I understand correctly that the candidate in the fall election gets some \$30,000 plus 50 cents per voter? Is that considered the spending limit? Am I correct?

Mr. Kushner: That is the formula. Yes.

Mr. Matrundola: Let us say, for example, in Metro Toronto or North York, generally speaking, there are about 25,000 people per ward, more or less, about 25,000 or 30,000. That would give somewhere around \$15,000 to \$18,000?

Mr. Kushner: Right.

Mr. Matrundola: The spending limit is based on \$30,000 plus 50 cents per voter?

Mr. Kushner: Yes.

Mr. Matrundola: If I read it correctly, you suggest that the guarantors be restricted to the candidate and spouse as they have no limit of contributions?

Mr. Kushner: That is right.

Mr. Matrundola: What does that mean? That they can contribute the total amount of the campaign?

Mr. Kushner: If a candidate had the means, a candidate could completely fund his own campaign.

Mr. Matrundola: OK. But he still has to be within the spending limit?

Mr. Kushner: Oh, yes.

Mr. Matrundola: He still cannot leave the spending limit. This brings up a question. Say, a candidate goes to the bank and borrows \$10,000 or \$15,000 and then somebody guarantees the loan. That would be taken into consideration as being a donation by a single person? Is that what the concern is?

Mr. Kushner: If the guarantee is enforced, yes.

Mr. Matrundola: If the guarantee is enforced, it would mean one person.

Mr. Kushner: Yes.

Mr. Matrundola: Then it would make good sense to me that the loan would not be guaranteed by the candidate.

Mr. Kushner: Yes.

Mr. Matrundola: My feeling about that is that the candidate has lost some credibility to seek public office. If the candidate does not have the money and does have the ability to borrow, I really do not know whether I really would put this person in a position of trust.

Mr. Black: You mean only the wealthy can be trusted.

Mr. Matrundola: No, no. I am not saying that. We are not talking about \$100,000 or \$200,000; we are talking here about \$10,000, \$15,000 or \$20,000 at the most. If a mature person seeking public office is not able to go to the bank and borrow \$20,000 as he does not have the money and does not have the ability to repay without a guarantee—also a person seeking public office, especially now with the new act, where you can get contributions and you can give back special receipts, if this person is not able to go to the bank and be guaranteed up to \$20,000 or whatever the spending limit is, which is around there, and be confident that he can get out there with a team of people and raise the money, I do not really know.

I think it makes very good sense. It should definitely be calculated as a contribution if somebody else did guarantee that loan and that then, of course, would exceed the spending limit. It is very serious.

This brings me to another point which has bothered me for some time. The whole matter, I believe, the whole process, should be reviewed. If we want to make it accessible to the public, on the other hand, to run, then we should change the system.

We could avoid all these problems of filing returns, of getting donations, of giving receipts, rendering accounts, if the government, municipal, federal or otherwise, were going to allocate so much money per candidate per election, because if we are going to have the two things of two different columns, on balance, we are dead, because we are really spending the taxpayers' money. All a person is doing when he donates money to a candidate, or when people donate to my own campaign, is telling the provincial government, "A portion of my taxes I want allocated to Mr. or Mrs. So-and-So.

1600

Then it happens that a certain number of people will make donations, up to \$750, and in the case of a municipal election, one can donate, if I read correctly, a limit of \$750. I could, if I had the money, donate \$750 to each municipal candidate in Ontario. Is that correct?

Mr. Kushner: That is right.

Mr. Matrundola: Therefore, what happens then is that I get the tax credits—only up to a certain amount, of course—which is not reasonably what one would do. The money is still coming from the coffers in large quantities. In effect, it would be more equitable and if we really wanted to give access to the public to run, regardless of being poor or rich, we should change the system altogether and say that each candidate is allowed so much money to spend. Render an accounting. That would be a more equitable to all the citizens of Ontario.

Then we would also avoid the great problem of possible conflicts of interest, whereas when somebody has, for example, donated money and then, for some reason, a constituent or whatever person goes to the candidate, the alderman or the provincial or federal member, who needs help, somebody can

point the finger, in case the favour was done, even if it was his duty to do anyway, and say, "Ah ha. He donated \$750, and he donated \$750 to each candidate." If we really want to stay away from the possible problem, then we should change the system altogether. You folks should give some thought to that. In the balance, in the end, it is going to be the same.

Madam Chairman: I think you are getting away from—

Mr. Matrundola: Thank you. Well, this was my chance to make the pitch.

Mr. Charlton: It is us folks you have to change.

Madam Chairman: OK.

Mr. Black: I am tempted to respond to my colleague, but I will not. I would point out to him, though, that credibility is not measured in terms of your ability to borrow money or how much money you have. There will be political candidates who are mortgaged in terms of their homes, who have borrowed money for other purposes, who might be excellent representatives of the people but who will not be able to go to the bank and borrow the money that is necessary to finance the campaign in the early weeks.

I like the suggestion, which I think was an excellent one, by the parliamentary assistant that we consider whether some amendments might be made that would allow a number of guarantors, if required by a financial institution, to a maximum of \$750 per guarantor, which I think would resolve the problem. It would allow for someone other than the wealthy, rich people whom Gino knows to enter politics.

Madam Chairman: Thank you all very much. That completes my list. Thank you, Mr. Kushner. That has been very interesting and stimulated a lot of very good dialogue.

Mr. Kushner: Thank you for the opportunity.

Madam Chairman: I thank you for coming and sharing your views with us and for providing us with a written brief.

Before we adjourn today, we have a report from the clerk on the people who are going to be appearing before on Thursday, May 19. So far, we have the Ontario Public School Trustees' Association, the Association of Municipalities of Ontario, the Association of Clerks and Treasurers of Counties and Regions of Ontario and the Large Urban Municipalities Association with Howard Moscoe as chairman, who is coming to make their representation.

We have a number of other associations that the clerk has been in discussion with. Maybe you would like to give us the latest on that.

Clerk of the Committee: OK. I will just quickly run down the list:

The Association of Municipalities of Ontario has been booked for next week. The Rural Ontario Municipal Association has been advised, but it is having a meeting on May 19 and will let us know on that date whether or not it wishes to appear.

Madam Chairman: But they have been informed—

Clerk of the Committee: They have been informed that if we complete our hearings on the May 19, they should provide something in writing.

An invitation has been sent out the County and Regional Municipalities Association. They will let us know. The large urban municipalities association is booked. The Organization of Small Urban Municipalities, I just heard this afternoon, will not appear. An invitation has been sent out to the Northwestern Ontario Municipal Association and to the Federation of Northern Ontario Municipalities.

The Association of Clerks and Treasurers of Counties and Regions of Ontario will be appearing next week. The Ontario Separate School Trustees' Association has been invited and will advise. The Ontario Public School Trustees' Association is scheduled. The Northern Ontario School Trustees' Association has been invited and will advise. The Ontario School Trustees' Council, again is having a meeting May 19 and will advise of their status at that point. They may let me know ahead of time. They are going to contact each of their associate members.

The Association of Large School Boards in Ontario has been invited and will advise. L'Association française des Conseils scolaires de l'Ontario has been invited and will advise.

The Ontario Municipal Water Association will let me know today, I hope. The Municipal Electrical Association will advise. The Ontario Urban Transit Association does not want to appear. The municipal law section of the Canadian Bar Association will let us know on Monday and the Commission on Election Finances we have heard from. The County and Regional Municipality Association also just called me this afternoon and is unable to attend.

Madam Chairman: As you know, as appeared in today's paper, I believe, we have asked for written submissions as well and given the deadline of the end of May. It is proceeding quite well and we may or may not have to meet after May 19. It depends on the number of people who want to appear.

Mr. Neumann: I just had one point that has been drawn to my attention by Mr. Manios, and that is that stemming from a speech which the minister gave to the Federation of Ontario Cottagers' Associations—I realize they are not a municipal group—the minister said to them in answer to their questions, "If you have any suggestions, please let us know."

They have indicated an interest to appear before the committee. They are not a municipal group but they are an umbrella group. Perhaps you might want to entertain them at either one of your next two meetings.

Madam Chairman: Does the committee concur with asking them to attend on May 19 when we are scheduling?

Ms. Bryden: I know they are interested in municipal elections in the cottage area.

Mr. Neumann: Perhaps the clerk could contact them and indicate a willingness to receive a written brief.

Madam Chairman: Yes. I think a direct request for a written brief might perhaps provide them with the opportunity to give us their perspective. It is the concurrence of the committee that the clerk will do that.

Mr. Charlton: We heard them before the standing committee on finance and economic affairs.

Madam Chairman: Mr. Daigeler and Mr. Matrundola did have questions of the previous delegation. You were not here when we started so we moved on to the next group. We can go back and perhaps Mr. Manios can answer your questions.

Mr. Daigeler: Just briefly, it should not take very long. I understand that the legislation would be retroactive to January 1, particularly with regard to campaign contributions. How is that going to work? I know, for example, that my mayor has had his fund-raiser. How will that work?

Mr. Manios: The legislation provides for a transitionary clause whereby individuals who have started campaigning and raising funds as of January 1 will have an opportunity to register with the municipal clerk within 60 days of the enactment of the legislation.

Once that registration is filed, that is retroactive to January 1. Therefore, what the candidate needs to have done at that time is to ensure that his contributions fall within the \$750 limit only from January 1.

Mr. Ballinger: How are you going to do that? It is now May 12. I do not think that is proper at all.

Mr. Charlton: On the same issue, what does that do for somebody perhaps who raised funds prior to January 1 for this first round under the act and somebody who received donations of greater than \$750?

Mr. Manios: If he raise donations of more than \$750, he can give it back. There is a remedy in the legislation. Prior to January 1, the legislation is silent and therefore those funds could be deemed to be his personal funds.

Mr. Daigeler: I still think this is placing people in a difficult position—the retroactivity. I can understand once the rules are set, these are the rules but for anyone to go back—

Mr. Neumann: May I just make a few comments? You must realize that at the time the minister made his statement in the House on December 10, it was anticipated that the legislation would progress faster than it has.

Mr. Daigeler: I would just like to leave with you then—

Mr. Neumann: Let me finish my comments. The minister indicated to me that on this issue of retroactivity to January 1 he is willing to be guided by the committee to some degree, that he recognizes we are now looking at a June date for third reading. He is interested in what the committee has to say on that, keeping in mind, however, that the campaign period specified in legislation is from January 1 on for this year and future years.

Second, while it was not part of his follow-up statement in the House, he did indicate to the media back in December and it was publicized to some degree that when passed it would be retroactive to January 1.

Perhaps as a committee you might want to examine the technicalities of how you would implement the retroactivity of it, and if it does not appear to

e workable, the date could be changed. It is something you should deliberate on and the minister is looking for your input on that issue.

Mr. Charlton: Just on that, I think what all of us are somewhat concerned about the technicalities of potential penalties. I do not think any of us want to see the January 1 date changed in terms of disclosure around the elections this fall. What we are going to have to think through on that—I am not even clear in my own mind at this point—is how we apply the limits and the penalties for that period between January 1 and the actual passage of this legislation.

Mr. Neumann: There are three main elements here. There is the individual contribution limit, and that is easy to fix. If somebody has given over \$750, the candidate can give back the excess, and that is done by political parties. If somebody forgot how much he contributed during a year and contributed in excess, it is given back.

Mr. Charlton: That is assuming that somebody has not been out there raising funds and campaigning and spending it. You can give it back if you still have it, but if you ain't got it, you can't give it back, and that is a problem.

Mr. Neumann: Secondly, the other main element is the total campaign expenditure limit. I guess you have to decide on how you would—

Mr. Charlton: Yes. Those are the two things we have to look at because there is a possibility of people who are really serious candidates who are out there spending money on the streets canvassing and handing out leaflets and so on right this moment, expending money that, on the one hand, may put them over the contribution limit and, on the other hand, may put them over the expenditure limit.

Madam Chairman: We can continue this discussion with the parliamentary assistant because he will be here throughout the hearings, as will Mr. Manios. The discussion is very relevant to the bill and it will be among the decisions we will have to make, but I think we should answer the call of the bells.

The committee adjourned at 4:14 p.m.

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STANDING COMMITTEE ON GENERAL GOVERNMENT
MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT
THURSDAY, MAY 19, 1988
Morning Sitting



STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

VICE-CHAIRMAN: Mahoney, Steven W. (Mississauga West L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Bryden, Marion (Beaches-Woodbine NDP)

Charlton, Brian A. (Hamilton Mountain NDP)

Daigeler, Hans (Nepean L)

Marland, Margaret (Mississauga South PC)

Matrundola, Gino (Willowdale L)

McLean, Allan K. (Simcoe East PC)

Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Substitutions:

Cousens, W. Donald (Markham PC) for Mr. McLean

McGuinty, Dalton J. (Ottawa South L) for Mr. Matrundola

Clerk: Deller, Deborah

Staff:

Smith, Cynthia M., Chief, Legislative Research Service

Witnesses:

From the Ministry of Municipal Affairs:

Neumann, David E., Parliamentary Assistant to the Minister of Municipal Affairs (Brantford L)

From the Ontario Public School Trustees' Association:

Wright, Arlene, President

Pierce, Marie, Director of Policy and Legislation

Parry, Ross, Director of Public Affairs

From the Association of Municipalities of Ontario:

Brick, Doris, President

Barrett, David, Member, Board of Directors

Moscoe, Howard, Member, Board of Directors

From the Association of Municipal Clerks and Treasurers of Ontario:

Nigh, John W., Chairman, Municipal Elections Project Team

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday, May 19, 1988

The committee met at 10:13 a.m. in room 228.

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT
(continued)

Consideration of Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

Madam Chairman: Ladies and gentlemen, we have half an hour for each delegation. It is now 10:15, and our first delegation for Bill 106 is the Ontario Public School Trustees' Association: Arlene Wright, president; Marie Pierce, director of policy and legislation; and Ross Parry, director of public affairs. Welcome.

As I said, you have half an hour to make your presentation and that time includes time for questions, so you can either use your whole half hour to make your presentation or you can leave some time for comments and questions from members of the committee.

ONTARIO PUBLIC SCHOOL TRUSTEES' ASSOCIATION

Mrs. Wright: I would like to read our brief, and it should not take too long. Then we would certainly entertain any questions.

I would like to introduce Ross Parry, who is our director of public affairs, and Marie Pierce, who is our director of policy.

The Ontario Public School Trustees' Association, on behalf of its 57 member boards from all parts of Ontario is pleased to have the opportunity to make a submission to the standing committee on general government on Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

OPSTA believes that any changes to the current municipal elections process should have two major goals: to make elections more accessible and to improve the election process for electors and for candidates.

With these goals in mind, OPSTA supports the amendments proposed in Bill 106 which make the process more accessible to voters by expanding the proxy provisions, by standardizing hours for advance and regular polls, by requiring two advance polls and by requiring all advance polls to be accessible to disabled electors.

We would argue, however, that instead of making elections more accessible, as has been argued by the minister, the proposed amendments for the disclosure of campaign contributions and expenses and the optional tax credit system would discourage candidates from seeking trustee positions.

The retroactive nature of the legislation, the confusion as to what the rules actually are and the fact that these major changes are being proposed only five months before the election will confuse both electors and candidates.

In addition to these general concerns, OPSTA has specific concerns with regard to the proposed tax credit system, the recount process, the retroactive nature of the legislation, the impact of other legislation on Bill 106 and the time lines for implementation.

Our major concern is the optional tax credit system. In its response to the report of the Advisory Committee on Municipal Elections, OPSTA supported the option afforded to municipalities and school boards to set up a tax credit system for contributors to local election campaigns. However, OPSTA is strongly opposed to any tax credit system which must be financed out of the money that is allocated to educate the children of this province. For each contributor to an election campaign, a tax rebate of up to \$350 can be provided. If there are a large number of candidates, the total cost of such a tax credit system could, on a province-wide basis, amount to well over \$1 million.

We use the Peel board as an example. There were 32 candidates for trustee positions during the 1985 municipal elections. The total number of public school electors was 297,850. Assuming that only five per cent of the electors contributed on average \$50 to a candidate, resulting in a tax credit of \$37.50, the total cost to the school board for this tax credit system would be \$558,469. We believe that to be a low estimate. This estimate does not include any corporate contributions. It is totally unreasonable to expect a school board to pay this amount out of the money allocated for the education of the children of their jurisdiction.

The cost of any tax credit scheme whose primary purpose is to encourage individuals to take a greater interest in the affairs of their local government should be borne by the provincial government and not the local jurisdiction through deductions from provincial transfer payments.

There should be an income tax credit scheme financed by provincial funds similar to that in place for provincial elections. Anyone could contribute to a municipal candidate in any jurisdiction, but only electors and corporations would be eligible for a tax credit. By using the same scheme as is currently in effect for financing provincial parties and candidates, the contributor would receive the same tax credit, whether he or she made a financial contribution to a municipal candidate, to a provincial party or to a provincial candidate. Administration and enforcement would be the responsibility of the Commission on Election Finances in Ontario.

Finally, it is highly unlikely that a school board would, in an election year, and only four to five months before the election, pass a resolution to adopt a tax credit system for contributors. The Advisory Committee on Municipal Elections recommended that the decision to institute a tax credit system must be made prior to January 1 of an election year. OPSTA strongly supports this advisory committee recommendation.

Our second concern is the recount procedures. Although OPSTA supports in general the new provisions for recounts which enable the clerk to be the recount officer, which outline the criteria under which recounts are to be undertaken and which extend the time provision for requesting a recount from 14 days to 30 days, OPSTA cannot support the requirement that the cost of all recounts, including the expenses and remuneration of the clerk undertaking the recount, be borne by the jurisdiction involved. OPSTA, instead, recommends that a judge should determine who is to pay for the cost of the recount.

Our third concern is the retroactive nature of this legislation. The

requirement that candidates register in order to be eligible for the receipt of campaign contributions and to claim campaign expenses is to be made retroactive to January 1, 1988. This means that all guidelines and requirements for the maintenance of records, the soliciting of funds and the declaration of expenses will also be retroactive to January 1, 1988. Candidates may find that some of the contributions already received may not be used because a record of the name and address of the contributor was not recorded. A candidate may also find that he or she has received a contribution in excess of that now allowed for under the legislation.

1020

OPSTA supports the amendments that place limits on campaign contributions and expenses and require disclosure through an audited report of these contributions and expenses. However, these requirements should not apply to the municipalities or school boards that do not opt for a tax credit system. A disclosure and reporting system should only be required if there is a tax credit system in which public funds are used.

These amendments demonstrate a lack of understanding of the unique and distinct role of the school trustee from that of municipal councillor and the situation in rural and small communities. Many of these changes are inappropriate and inapplicable to these two groups and will serve only to further discourage individuals to run as candidates for trustee positions.

It must also be noted that the Advisory Committee on Municipal Elections recommended that no legislation be enacted affecting local government electoral provisions within six months immediately preceding voting day in an election year. In addition, as already mentioned, it recommended that jurisdictions not institute a tax credit system after January 1 of an election year.

Bill 106 cannot be considered in isolation. In addition to this bill, there are currently three other major pieces of legislation proposing changes to the municipal elections process and in particular with the election of school trustees. All of these bills will have an impact on each other.

Bill 77, which received royal assent in April, implemented a new method of identifying electors. Bill 125 changes the method of determining and allocating trustee representation within school board jurisdictions from assessment to population. Bill 109 proposes the establishment of a French-language school board in the Ottawa-Carleton area.

Taken together, these pieces of legislation, many of which have not yet received royal assent, will result in a complete revamping of the election process for school trustees only five months prior to when the election is to take place. It is not an understatement to say that there is a great deal of confusion and frustration with these changes and the uncertainty of what will be required of candidates for the 1988 municipal elections. Taken together, all of these changes will serve only to discourage individuals from running for trustee positions and confuse the electorate.

The time lines for implementation of Bill 106 and other legislation affecting the 1988 municipal elections are now very short. OPSTA would recommend that, in support of the Advisory Committee on Municipal Elections, Bill 106 not be implemented for the 1988 municipal elections. Instead, the legislation should be delayed until the 1991 elections with the changes we have indicated so that the intent of the legislation is to encourage participation in the municipal election process.

In summary, with regard to Bill 106 OPSTA would like to reiterate that we strongly support the amendments which expand the provisions for proxy voting, standardize voting hours for advance and regular polls, require two advance polls and make polling stations more accessible. OPSTA cannot support a tax credit system which is funded out of the money allocated to educate the children of this province. Any tax credit system must be funded by the province.

OPSTA supports the new provisions for recounts but stresses that the allocation of payment for the cost of recounts continue to be determined by a judge. OPSTA recommends that the amendments which place limits on campaign contributions and expenses and require disclosure apply only to those jurisdictions which opt for a tax credit system.

Taken in the context of all the other changes currently being proposed for these elections, the retroactive nature of the legislation and the short time lines for implementation, OPSTA strongly recommends that Bill 106 not be implemented for the 1988 elections.

Madam Chairman: Five members of the committee have indicated that they would like to comment or ask questions. We have 20 minutes in which to allocate all those questions and your responses, so I would ask everybody participating to try to be as concise as possible.

Mr. Black: I would like to commend the representatives of the Ontario Public School Trustees' Association on a very thorough document.

There are three questions of clarification you could perhaps provide for me. On page 2, in the third paragraph, the statement is made in the last part of that sentence, "not the local jurisdiction through deductions from provincial transfer payments."

Did I miss something or is there a suggestion here that the tax credit system will affect the provincial transfer payments?

Mrs. Wright: Under the proposed tax credit system, each board would have to fund it. Now the boards only have two places to collect their money. One is from the transfer payments from the government. The other is from the local ratepayer.

Mr. Black: Just so I can be clear on what you are saying, the amount of tax credit you would give in any municipality will not affect the provincial transfer payments. What you are saying is that you would have to use some of the funds of the board.

Mrs. Wright: That is right.

Mr. Black: But it would not have a negative impact on the amount of transfer payments.

Mrs. Wright: No, what we are saying is, the money that the government gives us now for education would not be used for education purposes. Some of that money would be used as a tax credit system.

Mr. Black: Would you prefer that the government take out the tax credit before it makes the transfer payments?

Mrs. Wright: We do not want the boards to have to fund a tax credit system.

Mr. Black: I know what you are saying and you know what I am saying. The money has got to come from somewhere in any such system, and whether it comes from provincial funding, which probably then would result in a lower level of transfer payments, or whether it comes from your coffers after you have received the higher transfer payments, is a point that will be debated.

On page 4, I would be interested in having you explain to me what the difference is between the role of the school trustee and that of the municipal councillor in terms of having open and full disclosure of any funding received for elections. I would assume that small school boards and rural communities will use part II of the legislation. That does not require anything more than a disclosure of income. I am not sure why the trustee is any different from the local councillor in that situation.

Ms. Pierce: I am not sure that we are arguing the trustee is any different. We feel that if there are not public funds being used to support the election of the candidates, then there should not be a disclosure system. In most cases, trustees spend very little money on financing their campaign, and if public funds are not used in any of that system, why should they have to have a disclosure mechanism?

Mr. Black: I guess if no funds are received, then there will be no disclosure. There will simply be a statement showing no funds received. It is a pretty simple process. But even if trustees receive a minimal amount of support from sources other than their own pocketbook, I fail to see why they should not be required to disclose that, just the same as a municipal councillor in the same municipality who may also run an election without any particular amount of support.

I just do not see your point that the two are different. I recognize the school trustees are different from councillors and I recognize the difference between rural municipalities and large urban centres. I am sorry; I cannot accept the point that school trustees are any different from local councillors in that given situation.

Ms. Pierce: I think perhaps the point we are making is that if there are not public funds used, there should not be any disclosure system required, whether it is a trustee or a municipal councillor.

Mr. Black: All the legislation requires would be a statement that no public funds were received.

Ms. Pierce: Even if individuals spend their own personal funds, they have to make a statement of that, and also the expenses from the funds, and whether it is just a statement or an audited report or whatever depends on the amount of money spent.

Any sort of system which requires more administrative work and more papers to be filed by candidates and everything, we feel will discourage people from running for trustee positions.

Mr. Black: Finally, on page 4, if I may, I am not sure how Bill 77 and Bill 109 are going to have any significant impact on whether trustees decide to run for office. How electors are identified is not likely to have an impact on the campaign of any trustee, nor is it likely to have an impact on whether a trustee decides to run.

Bill 109 is limited strictly to the Ottawa-Carleton area, so I would

suggest that trustees from other parts of the province will not be negatively impacted by either one of those pieces of legislation. I wonder if you could explain to me what your position is.

1030

Mr. Parry: I have a couple of comments. First, I guess we are arguing here that all the bills are going to have an impact on trustees running for office. In the case of this bill, certainly in terms of the rules and regulations regarding disclosure and regarding whether a board should have a tax system, these are changes which at this point are not known to any candidate.

We just finished in committee, as you probably know, a bill which altered the trustee distribution, going from assessment to population. That bill, if we are lucky, might receive royal assent by the end of this week. It is doubtful. That will change many of the municipal wards and boundaries, as well as the number of trustees per board.

Mr. Black: I grant you that.

Mr. Parry: At this point nobody knows what that will be and the elections are five months away. We are arguing that there are an awful lot of changes in the election of trustees, which in the next coming months—and we assume not November 1, but certainly long before then—have to be known by individuals seeking a position; knowing where they are going to run and what jurisdiction and whether there will a ward there; will there be one or two trustees? This is all up in the air right across the school system.

Mr. Black: The only point I am making is that you identified two pieces of legislation which I do not believe will have any impact on whether trustees run or how they run, except in the case of one bill: it will impact on the Ottawa-Carleton area. In the case of the other, I do not think it does.

Madam Chairman: This is off the topic, gentleman, of Bill 106 and we are very constrained in time. I have more people on the list and I did ask for conciseness on all sides.

Mr. Cousens: I happen to have been a trustee for eight years and chairman of the York Region Board of Education and strongly support the intention behind your recommendations. There are issues in this bill that are very positive. I think it would be good to see those things proceeded with, and yet there are major problems.

I want to discuss one of the things that Mr. Black touched upon and I just wish there was more time—I realize, Madam Chairman, the limitation of it—to describe at least the understanding of a trustee's own sense of his or her role. You really touched on two major points. One is the role of a trustee as opposed to that of a councillor. In their own minds, they are different. They are not as political. They are very specific. There could be more consideration on that, and maybe it is a subject of a paper, or more discussion with the ministry and the government to understand what that role is. I know, as a former trustee, I still go back to it in a lot of my thinking.

The second one is the way money is spent. Can you discuss the two questions Mr. Black asked, which I think are very key to what this government is going to do to the role of a trustee in the future, when this bill is passed? The government is changing the ground rules. It is changing the

approach that I think is consistent with a long tradition of dedicated people involved with public service through trustees.

If you want to spend more time on those two questions, I happen to believe they are important. Because of their importance, it is causing our concern to have this committee and further discussion on it, because I think it is a fundamental difference in view, just even by the way you responded to their answers, Ken. It is something I would like to talk to you further about. If you could expand on it, I think it would be worth while.

Mrs. Wright: I would like to say that, being school trustees, we do feel we are in very unique situations. Some of the situations we are in are as a result of government legislation. For instance, trustees are not allowed to set their own salaries. Municipal councillors are. We must set the salary of an incoming board.

There are other areas where we feel we are very unique. We are not considered, in local municipalities, as being politicians. We are school board trustees. I think Mr. Cousens would agree with that.

I believe that trustees are very, very dedicated. I believe they work very hard. One of the issues that we feel very strongly about—and it boils down to the financing of education—is that we simply do not want to see education dollars put into the coffers of the tax credit system. If the tax credit system goes through, and if it goes through the way it is implied in this Bill 106, it means that the entire province is once again going to be treated differently. It means that the large areas are going to opt in for a tax credit system, because it would be a benefit to those persons running, but not to the school board; whereas the smaller areas will not opt into the tax credit system because there would not be a benefit. We believe that if the government is going to legislate Bill 106, legislate it province-wide and pay for it on a provincial basis. •

Mr. Daigeler: Personally, I have been a trustee myself as well. I think the trustees can be considered part of the cost of education and in that sense, I think, part of local taxation that we have for education. I think one can argue with the principle of it, whether the province should, in fact, cover the whole bill for education.

In any case, my main question is in paragraph 3 of your brief, and the question is not so much to you as perhaps to someone else who might clarify this for me. You refer to the fact that all advance polls should now be accessible to disabled electors. In another submission which we have received there is reference that all polls, not just the advance polls, should be accessible. Could someone clarify for me whether it is advance polls or all polls?

Mr. Neumann: If I may, the two mandatory advance polls must be accessible to the disabled or handicapped, and the provision in the bill requires that by the 1991 election all polls be accessible. It is a phrasing in.

Ms. Bryden: I also commend the public school trustees' association for the brief. I think it is one of the best we have heard. I do like your effort to estimate the cost of the tax rebate under the present law in the region of Peel. Nobody has done that before and given us an exact figure, and it certainly shows that a very great burden may be placed on the school boards if this legislation goes into effect the way it is. The New Democratic Party voted against this legislation mainly because that part of the bill, we felt, was poorly thought out, putting the whole burden on either the municipalities or the school boards. It should have been a provincial tax rebate.

Since the report of the Advisory Committee on Municipal Elections to the Minister of Municipal Affairs came out in August 1986 with discussion of the rebates and limitations, do you think that if we had had public hearings on that and had had a bill brought in on that subject shortly after that report came out, we would have had a much different recommendation regarding the rebate system and the limitations on expenditures and on contributions?

That is what we really would have liked to have seen, a much earlier bill on the subject, and we would hope that the deputations and the discussions would have led to a provincial system. Had the trustees considered that matter shortly after that report came out in August 1986, that we look into a rebate system?

Ms. Pierce: It is interesting to note that in the advisory committee's interim report, the committee members themselves, in their rationale for the recommendations, indicated that they would have preferred to see a provincially funded tax rebate system, but they did not think it would be possible so they made a recommendation that the individual jurisdictions finance that tax credit system. I think the committee also considered that, and perhaps it should have kept on with that consideration and made that sort of recommendation.

Ms. Bryden: If you had had public hearings back in 1986 or even early 1987, we might have come up with the decision that it should not be funded by the local communities and by the school boards.

The other reason we voted against this bill was that the timetable was so short, as you have pointed out very well. The legislation came in so late, and I understand that the school trustees' boundaries will not be established until July 31, 1988—this was, I think, what we learned last week—so that it does leave anybody wanting to be a candidate in a great fog until then as to how many positions there are and what the boundaries will be. Do you think it is feasible to run school trustee elections this fall with that late deadline?

Mrs. Wright: We certainly have some very grave problems with this. You are right, and it is now August 10, I believe, the date when the boundaries will be established, which is even a shorter period of time.

I would like to tell you that where I come from we have an area that is considered cottage country or recreation country, which is the Blue Mountain area in the Collingwood district, and we will not even know how many electors we have who are eligible to vote for trustees until after July. Yet we are requested to make our decision on where our trustees are going to be before this date. We are in a real quandary. We now have 13,000 electors in that area, but that could drop to 3,000. So there we are. Do we have two representatives in that area—we have three now—or do we have one? We are in a quandary as to just where our trustee representation is going to be:

1040

I would also like to point out to the committee that most boards of education in this province have already established their budget for 1988. They have not made any provision in there for a tax credit system. For a board that operates with a budget as small as \$17 million or \$18 million, an amount of \$35,000 is a very great amount for it. It is going to be a problem.

Ms. Bryden: It does put all members of the Legislature in a quandary as to whether to support this bill in its final reading because of the chaos

that may emerge or the difficulties that will result from this late date. We also opposed Bill 77, the new enumeration system which is coming suddenly and very late.

Do you think, now that we have got this far, we should go ahead with the new change or perhaps go ahead with it, leaving the option in for municipalities and boards deciding whether to adopt a tax rebate system? Do you think many of them will adopt this present option?

Mrs. Wright: Again, I can only say that we feel the decision should be made on a provincial basis, not on an individual board basis.

Ms. Bryden: Then you will have a uniform system across the province. Thank you.

Madam Chairman: Thank you, Mrs. Wright, and members of the delegation. Your time is right up to the dot, very efficiently done, and I thank you for providing us with your brief and your comments.

Mrs. Wright: We certainly appreciate the opportunity to be here this morning.

Madam Chairman: Our next delegation is the Association of Municipalities of Ontario, Doris Brick, president; Dave Barrett, member; McDonald Dunbar, executive director; and Howard Moscoe, member of the board of directors. Please come forward.

Mr. Cousens: Is Mr. Moscoe giving a presentation this afternoon as well?

Madam Chairman: Yes, he is.

We have exactly one half hour for each delegation, which includes time for your presentation and for questions and responses from members of the committee and yourselves. I ask you to bear that in mind when making your presentation. You can choose to use your whole half hour for presentation and leave no time for questions, or you can make your presentation, leaving time for questions, but we must stick within that half-hour time frame. The floor is yours.

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

Mrs. Brick: On behalf of the Association of Municipalities of Ontario, we welcome this opportunity as extended by the standing committee on general government to comment on Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

Our association has been highly involved in the process of municipal election reform for a great many years. More recently, and on behalf of our municipal members, it submitted detailed responses to the two reports of the Ministry of Municipal Affairs' Advisory Committee on Municipal Elections, both the interim report and the final report in February 1987.

Our association's interest springs from the strong belief that the municipal election process is indeed the foundation of municipal government in Ontario. It is therefore imperative that the legislation on which municipal government is constructed ensure, to the greatest extent possible, that the needs and requirements of the majority of municipal electors, candidates,

elected representatives and municipal officials in Ontario are met within the revised election legislation.

The Honourable John Eakins, Minister of Municipal Affairs, is to be congratulated on having brought forth legislation that is not only innovative and challenging, but which contains many of the recommendations previously submitted by this association.

Our association recognizes the urgency of proceeding with the legislation so that all concerned become fully conversant with the new procedures and requirements prior to election day, November 14. However, having accepted this condition, the association wishes to advise that its response to Bill 106 has been immediate and therefore must be considered preliminary. Many of our municipal members find themselves in the same position, and no doubt additional recommendations will be coming forward in the near future.

At this point, we would like to acknowledge that since forwarding preliminary comments to the Minister of Municipal Affairs and the leaders of the opposition parties on April 25, a meeting was convened by the officials of the Ministry of Municipal Affairs for the purpose of reviewing a number of procedural and administrative aspects of the proposed legislation. In attendance at that meeting, which was conducted on May 9, were representatives of the Association of Municipal Clerks and Treasurers of Ontario and AMO, as well as a representative from Municipal World.

The association is pleased to report to the standing committee that the meeting with ministry officials was conducted in a most positive manner and mutual consensus for revision was reached on a number of procedural concerns identified by the municipal representatives or by the ministry. In this regard, it is AMO's hope that the matters addressed at the meeting will be submitted by the Ministry of Municipal Affairs as revisions to Bill 106.

Having provided this update with respect to the above meeting, we would like to present some of the concerns that we do have with certain sections of Bill 106. Dave Barrett, the clerk from Welland, will address those concerns.

Mr. Barrett: I would like to add my own appreciation. Having participated in the meeting on Monday, May 9, we were very appreciative of the way we were received, the attitude of the people we dealt with and their co-operation. I am sure many of our concerns are going to be answered as a result of that meeting.

In the interests of time, I will paraphrase our report. I will not attempt to read it at all. I will highlight the recommendations that we are making.

The very first one deals with subsection 25(6) of the act, where the present legislation will not limit the type of voters' lists that a candidate is entitled to receive. As it is now in the act, a candidate running as a ward alderman, for example, only receives copies of a ward list. Under the amendment in the act, they could in fact demand lists for the entire municipality. We think that is unnecessary and we feel the wording that is in the act at present should be returned to the act to eliminate that problem.

On the matter of access to the polling places, AMO is totally supportive of this initiative. We do, however, have some concerns that there will be problems in attempting to implement this for all polls by 1991. We realize

this is going to engender some centralization of polls and perhaps, while attempting to accommodate one group of electors, may in fact impact greatly on voter participation for other groups of voters.

The suggested amendment for having section 56 of the act removed in 1991 is one that gives us some serious consideration, because that is the opportunity for people at the last minute to be sworn at the polls. We would like that provision to remain. I guess if I was speaking entirely as a returning officer, I might like to see it taken out, but that is not the case. It is there for the convenience of the voter. We are trying to encourage voter participation and make it as easy as possible. If somebody at the poll is in fact entitled to vote, he should not have to travel across the municipality to get a clerk's certificate and return to that poll to vote. We would like to see that section remain in the act.

Dealing with advance polls, the provision for a second mandatory advance poll, we submit, is totally unnecessary and is going to provide a great deal of administrative difficulty and additional costs to municipalities that really do not require a second advance poll. Provision in the act now allows a municipality, at its discretion, to have as many advance polls as it feels it needs. That has worked well. Those municipalities that felt they needed only one advance poll had one; those that felt they needed four had four. We would like to see that provision remain, and the provision for the second mandatory advance poll removed.

The association has concern regarding what we refer to as wide-open proxy voting. We feel that is subject to abuse in actuality. In our submissions, we stated what we felt were sufficient criteria for voting by proxy. Those conditions are contained in our brief and we would like to see those conditions put into the legislation so that the proxy voting is not "wide open."

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In the section dealing with recounts, in our earlier submissions to the advisory committee, AMO was supportive of the creation of municipal recount officers and we are pleased to see that is in the legislation. We realize that many of the administrative details are probably going to require at least one election before we realize whether they are really as good as they might be.

There are some minor concerns that we have with that section. One deals with subsection 84(5), where the words "returning officer" should be replaced by the word "clerk." I understand that is going to be done. Also, in section 86a, I understand there is going to be an amendment proposed from the ministry because the section does not take into consideration where there is only one polling subdivision in a municipality or a ward has only one polling subdivision.

One of the matters we would like to emphasize to the committee is the amendment to subsection 87(2) where provision is now extended for a judicial recount to 30 days. It has traditionally been 14 days. It is the association's opinion that the additional time is not necessary and will only delay finalizing the election of that council and create some administrative and legislative difficulties for that council.

Also in section 88j, the decision of the judge or recount officer, it is now provided that the appeal is to a district court judge. We have asked that the recount officer's appeal from the decision be in the first instance to the county judge and then to the district court judge.

In the section on election contributions and expenses, we had commented in the report on the length of the campaign period. AMO had suggested in its earlier response to the municipal elections committee that the campaign donation period be limited to a period commencing six months prior to polling day and six months after polling day.

There are two very important sections in here where we consider there are problems and I would like to read from our presentation in that instance.

Section 129, when a loan is considered a contribution: An individual can become a guarantor for a candidate's loan for any amount of money. If a candidate defaults on the repayment of the loan, the individual's contribution to the loan becomes a contribution to the candidate. More than likely the loan will be for an amount in excess of \$750 and thus the guarantor will automatically violate section 124, which places the limitations on contributions.

The problem is further compounded if the individual also makes a contribution to the candidate. Given the fact that the default will no doubt take place long after the campaign period or audit or declaration, the association wonders how the provision can be enforced or who will enforce compliance.

With respect to section 131, the appointment of auditors, concern has been expressed that the requirement for audited statements is effective only when campaign contributions exceed \$20,000. The vast majority of municipal election campaigns in Ontario are well under the proposed amount and the association is of the opinion that \$10,000 may be a more appropriate threshold.

Before leaving that section, I wanted to make a comment on something that was raised at our meeting with municipal officials earlier this month. The suggestion was put forward then that the provisions of part II and part III of the act not apply if candidates file a declaration to the effect that it is expected that their campaign contributions and their expenses will be under \$1,000. This will eliminate many of the candidates in smaller- and medium-sized municipalities and the clerks of those municipalities from an awful lot of unnecessary paperwork. We feel that if campaign contributions and election expenses are under \$1,000, the filing of all these documents is really not necessary.

That is not included in the AMO presentation but it is something that I bring forward as a separate item.

Dealing with part III on tax credits, the association in its response to the final report of the Advisory Committee on Municipal Elections supported the principle that municipal councils, school boards or other local boards wishing to implement a tax credit system be permitted the opportunity to do so. The association also recommended that the costs of the proposed tax credit system be borne by the participating municipalities, school boards or local boards from their respective revenues.

We have some concerns in the part of the legislation that deals with registration with the Commission on Election Finances for tax credits because in that section, I believe, there is an error that requires a person or a candidate upon registration to list the office for which he is running. That would be quite early in the year and is not a typical process. We were hoping that section of the act is going to be amended so that a person registering with the commission in February does not have to state the office he is running for, only that he is going to be a candidate.

One serious shortcoming that we see in that section deals with corporations. The Election Finances Act does have a provision that where a corporation is associated with another corporation under certain sections of the Income Tax Act, the two associated corporations shall be considered as a single corporation for the purposes of the act. We believe a similar provision should be entered into in this section of the act.

Perhaps just winding up with some general comments, we have welcomed, as our president said, many of the changes that have come about. We realize that there is an awful lot for both candidates and administrators of this act to absorb and we encourage and in fact hope this committee will encourage the ministry to as quickly as possible provide a summary of the duty and responsibilities, particularly under parts II and III of Bill 106, so that a summary can be provided to all municipalities for their purposes and for the purposes of the candidates who will be coming in to register.

Mrs. Brick: Just to wind up, we have included some information about Bill 77, but to allow for questions from your committee, we leave that for your perusal and our concerns there. We do hope that Bill 106 will be implemented and that if deficiencies show up in the process in the election year, the province will move to make changes before another election in 1991.

Madam Chairman: I have four questioners and we have 15 minutes.

Mr. Cousens: That is just a very excellent review and I thank you for the continuing interest that your association gives to legislation as it affects all the people of our province. It is a very responsible statement here today, as usual.

I am interested in knowing the amendments that were agreed upon between AMO and the clerks with the ministry. I do not think that our party has received any indication of what they were or what they would be. Maybe you can give me some sense of it. Just on that, have any amendments been prepared on this and circulated to anyone?

Mr. Neumann: If I may clarify that, the meeting to which the AMO representatives referred was a meeting of AMO with Ministry of Municipal Affairs staff and the undertaking from the Municipal Affairs staff was that where they feel amendments could be implemented they would discuss it with the minister and get his response. That has not yet happened. However, there is an undertaking I have given to the committee and the minister's reaction to me is to listen to all of the delegations and at some point I will be sitting down with the staff and the minister and determining what the minister feels is acceptable to him and to the ministry.

Having said that, I would indicate that staff indicated, too, at that meeting that in their reaction, there were some of the amendments they felt could be easily implemented and that will be conveyed to the minister.

Mr. Cousens: That would be extremely helpful to me and our party in the review of this legislation rather than duplicate such efforts. There is an extensive amount of work to be done in a very short period of time. If this legislation is going to be rushed through the House and if we are to really make good use of the time of all of us, I would appreciate receiving, either from yourselves or from the ministry, a listing or some indication of those changes that were generally agreed upon.

If they are common-sense ones, which I am assuming they are, then it

would make it a lot easier when we get into the House. Otherwise, it could be a month in the House. Who knows whether we can afford that amount of time?

Mr. Neumann: You will know well in advance of that time.

Mr. Cousens: It would be helpful now. That is my question. So the question now is directed to AMO.

Mrs. Brick: I believe it was an informal meeting with some of our representatives and I think the agreements that were discussed should come from the ministry.

1100

Mr. Barrett: I think there were representatives from at least three different groups that were making presentations at that time, so that I think in order to get the entire presentation, it would have to come back from the ministry. I would emphasize that those were administrative matters. In no case, did we deal with any of the policy.

Mr. Moscoe: However, I hasten to add that we would be very pleased to meet with members of both of the opposition parties to outline more specifically our concerns. I do not think that is a problem.

Mr. Cousens: I think we are just short of time. I do not think you are going to have that opportunity at this point. That is why we are here today and that is why, if you could delineate them, have them written out—

Mr. Moscoe: We have in this brief, but I hope the ministry would, to facilitate the process, make them known as quickly as possible to all parties. I think that would be a productive thing to do.

Mr. Cousens: I have to go on record as making that a very important point. There is just so much being done, and we cannot operate unless we have that with some kind of notice to it, especially since it is already tabled and it is in the hands of the ministry.

I am not going to go into the details because I could debate some of the points you have made, and I do not want to do that, but one of the points you just slipped in—that was an excellent presentation you gave; I forget your name, and I am sorry—was the point about the \$1,000 limit. If they are under \$1,000, God, that makes such good sense. I am just glad to hear it again because George McCague was saying that earlier. Why do you not just sort of comment on it a little bit more so it goes in the record and they can circle it?

Madam Chairman: We are under tight time constraints.

Mr. Cousens: Just say it again. Has there been any feedback from anyone else who says it is a good idea or is it just me?

Mr. Barrett: No. We have had a number of people who think it is an excellent idea, and that was why it was brought forward at the meeting on May 9. We certainly hope it will be given very, very serious consideration because I think it can eliminate an awful lot of unnecessary detail, not only for candidates but for municipal staff as well.

Mr. Cousens: Then I will slip back in, Madam Chairman. That is far

more than just an administrative difference; that is a major policy difference from the legislation. If that kind of thing was generally agreed to by staff, that is why I am saying there was a heavy urgency.

Madam Chairman: Mr. Barrett said in his statement to us that, in fact, he was adding that in a comment in addition to the recommendations that the Association of Municipalities of Ontario was providing.

Ms. Collins: Who did that come from? That is not an AMO recommendation.

Madam Chairman: It came from Mr. Barrett.

Mr. Barrett: It did not originate at the meeting from AMO's representative, but AMO is supportive of it. I again want to indicate the reason I have raised it here today is that when we raised it at the meeting in May with ministry staff, they clearly indicated to us that was a policy matter and would not be one of the administrative details that they were taking back to the minister. Hence we raised it here today in the hope that it will come forward from this committee.

Mr. Cousens: And hence I flagged it.

Madam Chairman: Ms. Bryden, and I have four more people on the list.

Ms. Bryden: I am going to yield at the moment to Mr. Charlton.

Mr. Charlton: There are two areas of concern that I have arising out of the presentation that you have made today, and I think I understand the concerns that you have raised. They have raised for me some additional concerns.

One was the comment about candidates registering but not having to register for a particular office. I think I understand that concern, having been an observer of municipal politics for a long time and having had family participants in the arena.

On the other hand, what we are going to have happening in a campaign period is candidates soliciting donations and donors who may support a candidate for one particular office and not support that same candidate for another particular office, depending on who the opponents might be. Have you dealt with that question at all? How would you deal with that?

Mr. Moscoe: That is up to the candidate. If I ask for funds for a particular campaign and I am not prepared to tell you the position I intend to run for, you will have to decide whether you want to give me money. I could say a year in advance that I am running for mayor and solicit your contributions on that basis or I could say I need your help for re-election, but I think that is something between the candidate and the donor that will have to be worked out.

Mr. Mahoney: Are you running for mayor?

Mr. Moscoe: I could be. I could be convinced. Do you want to make a contribution?

Mr. Charlton: Basically, I see some problems in that and the potential for people feeling like they had been duped, if you like, into

donating to something to which they would not have otherwise donated if the situation had been clear. I think if we are going to deal with that question, we also have to deal with some kind of a mechanism so that people have a recourse.

Mrs. Brick: A person is not forced to make a contribution, so it does go back to being between the donor and the candidate or the potential candidate.

Mr. Moscoe: If you want a provision that says a donor can demand his money back if a candidate changes his mind, feel free.

Mr. Charlton: I guess my concern is, for example, the example you used is that a candidate says, "I am going to be seeking re-election and I am starting to collect funds," and that person has been an alderman for the last decade. If that is the way the position is put to them, the expectation is going to be that the donation is being asked for as an aldermanic candidate, and then in mid-July or early August, when the mayor announces that he or she is not running again and that candidate all of a sudden becomes a candidate for mayor, with other opponents in the field, the donor finds himself -

Madam Chairman: I just got a clarification on that. They are only registering that they will be candidates in the municipal field. They are not registering for local Metro mayoralty or anything else but simply that they will be candidates, and that is all that is required in this.

Mr. Charlton: That is what I am expressing as being a concern.

Mr. Moscoe: It is a moral issue. If I objected to a candidate running for mayor when I contributed on the basis of the fact I thought he was going to run for councillor, then I would make a public issue and it would become a media issue, I promise you.

Mr. Charlton: The other area you raised is section 138, the campaign period itself, and the recommendation for the need for potential extensions of the campaign period. Again, I think that is a fair and legitimate concern and request on your part. On the other hand, the problem exists because we do not have a structure at the municipal level like we have provincially and federally where, at the end of a campaign period, if there are still outstanding campaign debts, those debts become the debts of a riding association and they still remain on the public record.

If we have a campaign which perhaps spent considerable amounts of money and we get extensions and we get extensions and the debt is never cleared from the public record, do we not have to have some kind of a mechanism to deal with that?

Mr. Moscoe: There is a mechanism. The candidate who gets a one-third tax-free allowance in his salary for such contingencies as that will then dip into his pocket, as municipal candidates have been doing for years.

Mr. Charlton: But how do we ever ensure that there is a final statement in an appropriate time frame?

Mr. Moscoe: I think the commission would have the ultimate responsibility for dealing with that, and I anticipate and hope that a candidate will have the opportunity to apply to the commission for an extension.

Mr. Charlton: That is what I was getting at. If we are going to have extensions, should there not be some cap or limit on extensions so that they do not go on ad infinitum because the debt continues to exist?

Mr. Moscoe: Sure.

Madam Chairman: We have five more minutes and I have two more people on my original list, Mr. Black and then Mr. Mahoney.

Mr. Black: On page 3, I am pleasantly surprised to see your comments on section 5 related to the repeal of section 56. It seems to me that makes a great deal of sense, but the question I would ask you is this: Does that provide any conflict, in your view, with the sections that relate to the limitations on campaign expenses by candidates? In other words, if we are not working from a set voters' list and campaign expense allowances are determined on a per capita basis.

Mr. Barrett: The act provides for the clerk to certify a list and a number of electors. That certification is not amended by people being added to the polls, either in this fashion or by clerk's certificate.

Mr. Black: Then let me clarify it, because I want to be clear on this point. It is your position that this would provide no major or significant problems in terms of administration at the municipal level?

Mr. Barrett: None whatsoever, but if it was not left in the legislation, it would create some very serious administrative problems because there are always a large number of people sworn in at the polls. If they could not be sworn at the polls, their alternative on election day is to come to city hall and get a certificate from someone who was already up to here in a million other administrative duties. There would be a lineup a half a mile long at city hall in almost any municipality if that provision is not left in the legislation.

1110

Madam Chairman: Thank you both. Mr. Mahoney has the last three minutes.

Interjection.

Mr. Mahoney: You would have taken longer; I know.

A couple of issues: First of all, it would have helpful—I do not have the amendments—to know whether they agree to the amendments. Our party does not have them and it would be helpful if we had them prior to hearing the suggested amendments so that then we do not have to question them if they are all agreed to, particularly with our time constraints. If it is at all possible in the future, prior to deputations coming forward, if we can somehow arrive at a consensus, then we can shorten our time period.

On the issue of reducing the \$20,000 to \$10,000, I have talked to Mr. Moscoe a little about this. It just seems to me, by a little quick calculation, that at \$20,000 you need a ward, if it is a municipal councillor, of 35,000 people before it kicks in requiring an audited statement. If you reduce it to \$10,000, my rough calculations are that you need a ward of about 13,000 people for the audit requirement to kick in.

Mr. Moscoe: Electors.

Mr. Mahoney: I am sorry, electors; that is right. By reducing it, you are going to be dragging more of your members into the requirement for audited statements, and I just wonder if there has been discussion at your fiscal policy or board meeting of why. It would seem to me, from my days on the Association of Municipalities of Ontario, that they would prefer it to stay high so that they do not have to submit an audited statement.

Mrs. Brick: I guess the very reason we think it should be lowered is that there would be audits.

Mr. Moscoe: The second-largest municipality in Ontario is North York. This afternoon I am going to give you specifics about the last North York election which will show you that the cost of an aldermanic campaign is about \$7,000 on the average, so in fact very few people would be audited in this province with a \$20,000 stipulation, and that would defeat the whole purpose of the act.

Mr. Mahoney: Do you feel it is important to stress the audited report versus the unaudited report and the public disclosure? The fact that you have to disclose publicly where your money has come from and how you spent it as a candidate would leave you subject to public scrutiny in the media. Even though it does not have an official auditor's stamp on it, it still would be a public document. Do you not feel that would suffice?

Mr. Moscoe: In the last municipal election in the city of North York, 19 out of 53 candidates did not file statements and we were operating under the old legislation in accordance with the bylaw. To this date, those 19 still have not filed statements.

Mr. Mahoney: Are any of them elected?

Mr. Moscoe: No. Two have filed statements that are questionable; I will demonstrate that to you this afternoon too. There is no enforcement provision whatsoever, so an audited statement is a guarantee of the validity of the contents because the auditor stakes his reputation on the contents.

Mr. Mahoney: A final question on the time limit retroactive to January 1, 1988, for these contributions. Can you just comment on that?

Madam Chairman: Very briefly.

Mr. Barrett: The original suggestion that AMO had made was that the campaign donation period commence six months before election day as opposed to January 1 in election year—

Mr. Mahoney: You still stick with it?

Mr. Barrett: —and we are still maintaining it.

Madam Chairman: Thank you very much for your presentation. I appreciate it and the opportunity for questions, and for sticking to our time lines. They are very tight.

Our next delegation is the Association of Municipal Clerks and Treasurers of Ontario: John Nigh, chairman of the municipal election subcommittee; John Hollins and Jim Anderson, members of the municipal election

subcommittee; and Ken Cousineau, executive director. Welcome, gentlemen. Do you have a written submission for the clerk?

Mr. Nigh: We have given copies of our written submission to the clerk and I would anticipate that it has been distributed. The president of our association is unable to attend today. He is availing himself of the beautiful, sunny climate of Vancouver. As chairman of the special committee formed to examine this bill, I am pleased to make the presentation on behalf of the association.

Madam Chairman: Mr. Nigh, take guidance from my comments to previous delegations about the time limit. It is now 11:15 a.m.; we have half an hour.

Mr. Nigh: Yes, I will.

ASSOCIATION OF MUNICIPAL CLERKS AND TREASURERS OF ONTARIO

Mr. Nigh: Some of the script we have has already been stolen by the Association of Municipalities of Ontario, so I will attempt to make my comments as brief as possible.

We would first like to indicate that we have been involved not only in this process but in the previous process and processes for the past 20 years or more. I think we are quite familiar with the act. As the chief practitioners and the people who are required to live with it, provide information from it, be experts on it and be criticized if we are not, I think we have a special interest in it. I would suggest that maybe this submission will be a little more technical than others for that reason and I hope you will bear with us on that score.

Earlier this morning, I heard suggestions that the bill should not be implemented for the 1988 municipal elections. We would support the principle that the bill should proceed. We support, basically, most of the principles in the bill itself. We have a considerable number of problems with the administrative side of it, but we would support the bill proceeding.

We would support, however, that it not be proclaimed to be in force for the 1988 municipal elections. We say this for two reasons. The administrative procedures in the bill will require some considerable time to digest, but more important from our point of view, it will cause a considerable number of problems for candidates. I suspect the incumbents in office will have access to copies of the bill and to staff and will be more able to understand what is going on. I would suggest that candidates for office who have not run before and who do not have that kind of access will have a great deal of difficulty understanding what they are now required to do.

Having said that, I would like to go through the bill section by section. Where AMO has already made comments, I will only say, "Us too."

We agree with the suggestion that the existing section about provision of lists of electors should remain. We do not think a candidate for ward office should automatically be entitled to receive lists of electors for the whole municipality.

We agree with the principle of polling subdivisions being accessible to the handicapped. In my municipality, the city of Scarborough, we have, without any legislative requirement, at least for the past three or four elections, made all of our advance polls accessible to the handicapped. However, our

position is that if we were required to do this for every poll, we would, in fact, be doing the exact opposite of the intent of the bill; that is, making some polls much less accessible to some voters.

We will presently put polls in individual buildings even though there may not be enough electors in that building to justify the poll on its own, simply to provide easy access and convenience for the elector. If we are required to do this, we will have to centrally locate many of our polls and the result will be that these people will have to go a lot farther.

We wholeheartedly support the retention of the declaration at the poll. We think that in municipal elections we are unique in that we provide the elector with every last opportunity to get on the list. We would suggest that should remain. In our opinion, it does not provide any administrative problem whatsoever.

As far as the second mandatory advance poll is concerned, I think our position is that we do not see that the existing provisions have caused any problem, but if it two are mandatory, that is fine. We have had as many as four. We have cut back to two because having four was a complete waste of time. I would suggest that in small municipalities, having two advance polls is a complete waste of time. Our suggestion is that it should remain as it is.

We are, in fact, the body that suggested that the municipal clerk be the recount officer. This suggestion was made in response to the recommendations in the Anne Johnston report. We suggested what we thought was a much more viable alternative. We are concerned, however, with the way the bill implements this particular proposal.

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We think the key components of the philosophy are as follows:

The municipal clerk responsible for conducting an election be defined as the recount officer for so-called automatic recounts. I might also point out that we have supported the provision of "automatic recounts" where the vote total is so close as to offer the probability that the judge, no matter whether there are good reasons or not, will order a recount. However, we emphasize that should only occur in situations where the vote is very close, understanding that the definition of "very close" will be widely interpreted;

That the legislation provide the clerk with the authority to appoint a person to act as a recount officer in his or her place;

That the recount officer or the person appointed not be eliminated from conducting the recounts because of the fact that he may have been involved in counting the ballots in one or more polling subdivisions; and

That the formula used to determine when an automatic recount can be requested be based on voter turnout, not the number of polling subdivisions—I will explain why—and only provide for automatic recounts in situations where a recount would be likely to occur.

The present recommendation for automatic recounts is that they be based on half a vote per poll. In large municipalities with anywhere from 450 to 700 polls you could have an automatic recount, upon request, for as many as 350 votes. I do not think there is any situation in which a judge would order an automatic recount on that differential in votes.

Our suggestion is that the recount formula should be based on the number of votes. We have made this suggestion before and the response has been, "It is too complicated." I would suggest to you that "complicated" is the definition in the dictionary beside Bill 125. Our suggested formula is very simple, and I will simply read it to you.

Mr. Cousens: Where is that? What page?

Mr. Nigh: Unfortunately, we did this in such a hurry that we did not number the pages. I am sorry, page 5.

Upon request to a recount officer by a candidate directly involved, a recount would automatically be held if the margin of votes for the winning candidate is 15 per cent or less of the square root of the total votes cast for the candidates involved.

Everybody thinks that is terribly complicated. I will give you an easy example. If you had an election in which there were two candidates, candidate A had 27,643 votes, candidate B had 27,400 votes and there were 520 polls, the existing formula under Bill 106 would provide an automatic recount if there were less than a 260-vote difference. I suggest to you that is totally unreasonable. If you used our formula, the vote difference would be 35.2, or 36 votes. I suggest that that is a reasonable number, bearing in mind that all a candidate has to do is ask and he will get it.

With respect to the recount itself, we think the provision of the clerk as the recount officer should be a very simple, straightforward provision and that the following principles should apply:

The recount officer is responsible for making a determination as to the validity of each ballot.

It is the candidate's responsibility to object to the recount officer's determination at the time of the decision on each ballot.

The recount officer is to hold all disputed ballots in a separate envelope until the end of the count.

The recount officer is to complete the recount, certify the results and provide these results to each candidate.

If the total number of disputed ballots is greater than the difference in votes between candidates, then any of the candidates involved in the recount may request that all disputed ballots be referred to a district judge for determination, and the recount officer shall do that.

If the total number of disputed ballots is less than the difference between the elected candidate and the other candidate or candidates involved, then the decision of the recount officer is final.

With respect to those last two points, I would point out that the senior judge of Ontario expressed great concern about the possibility of an additional number of recounts, indicating that they simply did not have judge time available. If the number of votes disputed is less than the difference between the candidates, I suggest that the judge would be delighted to waste his time making a decision on those ballots when it would make no difference in the final result as to who was elected.

We would suggest that those principles be involved and that the section be rewritten to simplify the process and to take those principles into account.

Part II and part III of the bill, while they contain many similar provisions, contain several different provisions. Nowhere in the bill does it say that if you go under part III, part II is deemed not to apply. I think those two sections should be able to rely solely on each other. You are either under part II or you are under part III, and there should be no confusion. That should be clearly defined.

Section 122 in part II and section 143 in part III require every person who proposes to be a candidate to register either with the clerk under section 122 or with the commission under section 143. If a person registers under part III, under the present conditions he must indicate the office for which he intends to run.

These six sections would appear to establish a registration as a condition for a person to be a candidate, and in the case of section 143, require a person upon registration to make a decision as to the office for which he intends to run.

There is no corresponding requirement in the qualifications for office in the statutes which create the office, nor is there any corresponding section in the disqualification sections. In addition, the requirements to indicate the office would seem completely contrary to the section on nominations which has specific provisions for a person to be nominated for more than one office and specific provisions on how he may withdraw. It has, in fact, specific provisions that say, "If you do not withdraw, you are deemed to be nominated for the first office you were nominated for."

If the intent of the legislation is to require registration only if a person intends to accept funds from other people, then the legislation should so state. There is also a question that arises: The proposed statute says that a person intending to be a candidate "shall" register. The question is, if they do not register, are they eligible to be nominated? As a returning officer, I do not know how I would answer that.

I am just trying to paraphrase this, if I may take a moment to read this little clause.

We are also concerned with the provisions of the act that provide that a candidate is in effect thrown out of office for noncompliance with the filing sections. The section gives them, if I recall, six months, and then says that immediately after that, if they have not, the clerk shall write them a letter and give them another 30 days. If they do not do it then, immediately after that, they shall be deemed to be out of office.

This is the only section I am aware of that would have provisions that are open to argument. When is "deemed" and when is "immediate"? If you are elected to the provincial Legislature, you are no longer entitled to be on a municipal council, and the date you are disqualified is the date of the gazetting. If a court says you are out of office, you are out of office on the date of the decision. Any of the other reasons for which you would be disqualified have a definite and distinguishable date attached to them.

I think this is very important. I do not know who is going to deem they are out of office, although I appreciate that is a legal term and may have some other meanings assigned to it. Nevertheless, I think that when a

candidate is to be thrown out of office because he did not comply with the filing sections, and is going to be prohibited from running in the next election, one should be able to read the statute and tie that down to specific dates and not leave it up to interpretation. Certainly, I would not want to be the one to give the interpretation. If it has to go to the courts, I think it defeats the purpose of the whole section.

I will now end my comments. I would say that our submission was just typed in its final form this morning. There may be some grammatical errors in it. There may be some things that we would like to have said that we did not have time to. However, we do appreciate the opportunity to make the submission we have been able to make.

Madam Chairman: Thank you, Mr. Nigh. There is the opportunity still to provide more written material until the end of this month. I have three questioners and we have 15 minutes. The first is Mrs. Bryden.

Ms. Bryden: I would like to congratulate the Association of Municipal Clerks and Treasurers of Ontario for coming here. I imagine that they felt the same frustration a lot of us have felt, that we may be locking the door after the horse is stolen in that it is very late to consider all these amendments and to know how they will effect the current election. In effect, what you are expressing is your disapproval of the violation of the principle that election acts should not be amended during an election year.

Mr. Nigh: Absolutely.

Ms. Bryden: That is what my party was also expressing when we voted against it. However, we now have this legislation before us and we have to deal with it as it is.

On the access matter, you say that you do want to see it at advance polls but that you are willing to accept the principle that it not go into effect until 1991 for all other polls. I am sure that in the past you have attempted to meet the principle of access at all your polling places as far as possible, but it has not been mandatory.

Do you think the clerks and treasurers, particularly the clerks, who make the choices, can adopt a sort of principle that they will, as far as possible, try to arrange access for wheelchair people or opportunities for them to get proxies as easily as possible and try to adopt the 1991 goal for this election?

1130

Mr. Nigh: There is no question that we have sympathy with the principle. As I have indicated for a number of years, we have provided it at 100 per cent of our advance polls. In fact, we have indicated this in the where-to-vote cards that have been mailed out and we have publicized it, so we think we have supported the principle.

What I am saying is if we are required to do it for all the polls, the penalty will be on the other side. It will be much less convenient. If we have to, we will. We will take them out of buildings that we cannot convert and move them into buildings that we can. That inevitably will mean that some of the polls will be farther away and that some people will have more difficulty in voting. We think that the requirement to have it at the advance polls—there are at least two advance polls if the present provision goes through—provides an opportunity for everybody.

Ms. Bryden: The more multiple polls you have—say, half a dozen in one school—of course the more you really cut down access because the voters have to travel farther.

Mr. Nigh: That is right.

Ms. Bryden: It seems to me you have to balance the two principles: access but not a long trip.

Mr. Nigh: Obviously, one of our principal concerns is to make the access to electors as easy as possible, certainly.

Ms. Bryden: On the question of proxies, how will you deal with the necessity that when a proxy is sought by an elector for another elector, he must get the municipal clerk's signature on it? In a big city like Toronto or any of the other big ones, it is a long trip down to the clerk. Will there be any opportunities for sub-offices where people could take them, or could one elector bring a dozen signed by other people? It could be a form or something that he can collect them on and authorize the request for your signature.

Mr. Nigh: It is not suggested that the requirement for the clerk to sign the proxy form be changed.

Ms. Bryden: But the opportunity to get a proxy is being broadened much more.

Mr. Nigh: It is being broadened. I do not know that people will be that much more willing to give up their right, if you like, to go into the poll and mark their own ballot. I do not personally see that as a great problem. But I do not know how we would establish branch offices, for example.

Ms. Bryden: Branch municipal offices somewhere?

Mr. Nigh: I do not personally see that as a great problem. I guess the reason this was introduced is that some people said: "I can't fall within any of the existing requirements to allow me to appoint a proxy. I have to be out of town on business. There is nothing I can do about it. If that also includes both advance polls, I guess so be it."

I would be very concerned if we see a tremendous influx in proxy voting, because I would suspect that involves some abuse of the process. That would be my own opinion.

Ms. Bryden: Do you support retaining the swearing in, rather than deleting it?

Mr. Nigh: Yes.

Ms. Bryden: Does it involve the municipal clerk or is it done, just as at present, at the poll?

Mr. Nigh: It is done at the poll.

Ms. Bryden: And the person has to have some sort of ID?

Mr. Nigh: The person has to take out his affidavit that the form contains his name, his qualifications and so on and so forth, yes.

Ms. Bryden: Do you think it has been subject to abuse, or could be subject to abuse, if we retained it?

Mr. Nigh: It could be subject to abuse, but I do not think it is much more likely to be subject to abuse. Anyone can now walk into the poll and, having looked at a list of electors which is on public display, say, "I'm John Smith," and as long as none of the people in the poll knows John Smith, he is going to get a ballot and vote. Then John Smith comes in later on and proves he is John Smith and he also gets a ballot.

Those kinds of things are possible, if not probable. We have had absolutely no problems whatsoever with the certificates to vote at the poll. I can assure you it is much better to do that than to have somebody come screaming to me at a quarter to eight that he does not have time to come down to the municipal office and get a certificate to vote, even though he is otherwise completely eligible to do so.

Mrs. Marland: I think that point about the other opportunities to use the system abusively is very well made, because I was going to ask you about the continuance of the declaration at the poll and was going to suggest that we do not ask for for ID for somebody who has read the voters' list attached to the lamp-pole outside.

I wanted to ask you to elaborate a little more, if I may, on the proclamation of this bill after the 1988 election, since you obviously have a lot of company with that wish and, since you are the people who are more directly responsible for making the whole legislation work than anybody else, I respect very much that the opinion of your association is in line with the others who have made the same point.

Mr. Nigh: This is a very complicated, detailed bill. It introduces totally new concepts and it introduces some very new and untested waters, if you like.

Our concern is twofold, I guess. First of all, as municipal clerks and responsible for the implementation of it, we feel the legislation not only needs to be cleaned up, but it also needs to be clear and concise and we need to understand it. I think we can do that.

I think the people who will have the most problem with this legislation are candidates. There are a number of things they will have to do that they have never had to do before, and I think the communication of what they have to do in such a short period of time will be very, very difficult.

Mrs. Marland: Plus the education of the public as well—the public other than candidates.

Mr. Nigh: Yes. I do not think that will happen at all, quite frankly. I think if this had been started in the first of a three-year period and had been thrashed out and finalized in the first year or halfway through the second year and allowed that period of time for publicity and so on, that would have been the most effective method to proceed.

Again, as I would point out, we do not disagree basically with most of the principles in the bill, the principles themselves.

Mrs. Marland: No, I heard you say that. We just will hope that the government will listen to the very loud and very clear message that is coming

across about the proclamation, and therefore the effective date.

When you were just talking about some of the aspects of recounts, I was trying to skim through the other words that you were not reading in your brief while you were doing that. Do you support the presence of candidates' scrutineers at those recounts?

Mr. Nigh: Oh, absolutely.

Mrs. Marland: OK. That is not a problem.

Mr. Nigh: Let me be careful when I say that. Absolutely, in all instances. I would point out to you, however, in the case of municipalities that use either optic scan equipment or punch card equipment, that while the candidates and their scrutineers certainly should be there, there is quite a different set of circumstances than when you have a paper ballot that you lay on a desk and you look at the marks; but with those remarks, absolutely.

Mrs. Marland: Of course, in Mississauga that is what we do use.

Mr. Nigh: The point made in the recount section is that there was a suggestion that if you were involved in a recount you should not be the recount officer, but when you are in a recount the candidates are entitled to have their lawyers. I have done several of them. They have legal representation, they can make their points to you, and I see no reason for that other provision at all.

Mrs. Marland: I will yield the floor in view of the time.

Madam Chairman: Thank you. I have two more questioners and five more minutes.

Mr. Cousens: I truly appreciate the insights you have shared with us and I wish I had had a chance to go through and compare your support of recommendations from the Association of Municipalities of Ontario and do a chart on it, but we have run short of time.

I wonder if someone could do that along the way of the two things, because someone is going to have to do it and we are all going to end up—

Madam Chairman: Our research person will be providing us with all the different positions on the different recommendations.

Mr. Cousens: I would not mind seeing a page on it, because I think it would be very helpful. Where there is agreement between your body and AMO and another, that makes politicians pay a little bit more attention. We are used to seeing you guys disagree once in a while, but when there is agreement I think it might help. The Liberal majority would pay more attention to it.

Mr. Black: We always pay attention.

Mr. Cousens: More attention. Even if it is a modicum of support—

Mr. Mahoney: You just want an occasion to hurt.

Mr. Cousens: Ah, hey, I want you to hurt, just a little bit.

The proxy voting still bothers me. I am concerned about it and I am just

wondering, are there other jurisdictions that have the extent of proxy voting that is being suggested in this legislation that you know of, and how do they handle it?

1140

Mr. Nigh: From my recollection, I believe the provincial Election Act has limitations on the proxy voting, but I have not checked it recently, so I would not want to swear to that.

Mr. Cousens: It is quite a precedent that we are breaking into here. I find it just quite amazing, because there are so many other ways people can—

Mr. Nigh: While we have not objected to it as an association, there is no doubt in my mind that the possibility of abuse exists and is extended the further you extend the ability to vote by proxy. Whether there is a very wide gulf between the possibility and the practicality of the thing, I do not know.

Mr. Cousens: OK. The other thing is that the Ontario Public School Trustees' Association made some comment about who is going to pay for the recount. Do you have any comments on that?

Mr. Nigh: My recollection at present is that if the recount is requested by a school board, for example, or is for a school board candidate, the board has to pay anyway.

Mr. Cousens: Is that right?

Mr. Nigh: I believe so. At the present time, the only cost of a recount to the municipality is the salary of those persons who have to attend for the half-day, the day, the two days or the three days. As long as there is no suggestion that the municipality has to pay for the legal expenses of the candidates involved, I do not have a great problem with it. That, of course, is currently up to the discretion of the judge.

Mr. Cousens: Thank you.

Mr. Daigeler: I just want to be very clear about what you said a few minutes earlier. I guess you heard the Association of Municipalities of Ontario saying it has no objections to the bill's being implemented at this time. I heard you say as well that as far as the clerks are concerned, you think it could be done. The major difficulty would possibly be for the candidates. I think that is what you said, and I would like you to confirm that.

If that is in fact your reading, given the provisions of the bill and the possibility, which I think is a reasonable one, to say that for those who spend less than \$1,000 there should not be any kind of declaration required, I think the provisions will not affect so many candidates that they will create an insurmountable obstacle for these candidates. I would just like for you to comment on that.

Mr. Nigh: If the legislation could be amended in the technical sense to answer some of the questions that we have from the clerks' point of view, I think it is fair to say that we could become familiar with the legislation. Whether or not it will affect many or all or how many municipalities is, of course, unclear.

I bring this reaction to you because one of our standing committees examined this bill the other day and its reaction was, "Good heavens, do we have to do all of these things?" That is a politician's reaction. I think that is a real problem, as opposed to a perceived problem.

If it is not well understood, then they are going to expect us—that is, the municipal clerks—to explain it. I do not think there is sufficient time for that to be adequately done, nor do I think it is our job necessarily to publicize the legislation. I think therein lies the problem.

Madam Chairman: Thank you, gentlemen, for your presentation and, again, for everybody's co-operation in staying on time.

Mr. Nigh: Thank you very much.

Madam Chairman: I now ask the clerk to bring us up to date on the notices, who is coming and who is going to provide us with written briefs. We should also talk about our schedule for next Thursday and the Thursday after.

Clerk of the Committee: The schedule, as you have it in front of you, is what we have so far in terms of those groups that have been booked. We have four associations outstanding: the Northwestern Ontario Municipal Association, the Ontario Municipal Electric Association, the Ontario Municipal Water Association and the Federation of Northern Ontario Municipalities, which have all been contacted. Either they have said they will get back to us when they have spoken to their associate members or we have had no reply from them at all.

The Ontario School Trustees' Council will be meeting today, so I should know by the end of today what it wants to do. I have indicated there is a possibility it may have to submit something in writing.

As well, the Association of Large School Boards in Ontario has indicated that it will submit something in writing before the end of May.

Madam Chairman: We are now going to be receiving one more delegation this afternoon. We will have briefs. We will deal with the briefs next Thursday, including the written briefs. The researcher will have available for us the grid, as requested, which will give us the perspective of the various groups that have appeared before us and the groups' briefs that we have received that will mark out their points of agreement or points of concern with various aspects of the legislation.

I would propose that, on June 2 we meet again in the morning—that is the next Thursday, I believe—and that we then start clause-by-clause. Is that agreed to? We are meeting this afternoon. We have one delegation, Mr. Moscoe from the —

Mrs. Marland: I have a problem because I have the resources development committee this afternoon. It is a bad situation. I am on both committees. If I am not here, I am there. Mr. Cousens is speaking on the budget this afternoon.

Mr. Daigeler: Why do you not give that up?

Mrs. Marland: We will hustle and see if we can make it.

Mr. Cousens: I will be here to let the committee get started and then read Hansard.

Madam Chairman: OK. It is only the one delegation. It is limited to half an hour. It is the large urban municipalities. Is that correct, Debbie?

Clerk of the Committee: That is right. The large urban section and Mr. Moscoe.

Madam Chairman: Which includes Mr. Moscoe.

Mr. Neumann: I heard a request from Mr. Cousens that the minister provide the committee with acceptable amendments as soon as possible. I should point out that that has not been done to date because we are here to hear what the delegations have to say. I think it would be inappropriate of the minister to table amendments prior to hearing all the input. There might be something that we table and then new information comes along that perhaps causes it to be reconsidered. Never the less, the comments that were expressed will be passed on to the minister, and he will take that under advisement.

Mr. Cousens: If that is the case, then make every effort to try to get those to us, because if there are a number of housekeeping items, we might spend time with legislative counsel and others preparing amendments, as well as the time of the committee. The sooner we can get that kind of feedback to ourselves, outside of waiting for the next regular meeting of the committee, I think it would mean an awful lot to the process we are involved with. If they already assumed that a number of those changes are going to be made, then that it is going to hurt our process, I think. Do what you can within your ministry to speed things up. That is really what I am saying.

Ms. Bryden: I would certainly endorse what Mr. Cousens said.

Madam Chairman: OK. We are now recessed until 3:30 p.m.

The committee recessed at 11:48 a.m.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT

THURSDAY, MAY 19, 1988

Afternoon Sitting



STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

VICE-CHAIRMAN: Mahoney, Steven W. (Mississauga West L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Bryden, Marion (Beaches-Woodbine NDP)

Charlton, Brian A. (Hamilton Mountain NDP)

Daigeler, Hans (Nepean L)

Marland, Margaret (Mississauga South PC)

Matrundola, Gino (Willowdale L)

McLean, Allan K. (Simcoe East PC)

Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Substitutions:

Adams, Peter (Peterborough L) for Mr. M. C. Ray

Cousens, W. Donald (Markham PC) for Mr. McLean

Ruprecht, Tony (Parkdale L) for Mr. Matrundola

Clerk: Deller, Deborah

Staff:

Smith, Cynthia M., Chief, Legislative Research Service

Witnesses:

From the Association of Municipalities of Ontario:

Moscoe, Howard, Chairman, Large Urban Section

Nayman, Bernard, Chartered Accountant; with Nayman and Grabowski Chartered Accountants

From the Ministry of Municipal Affairs:

Neumann, David E., Parliamentary Assistant to the Minister of Municipal Affairs (Brantford L)

Manios, George, Policy Adviser, Organization Policy Section, Local Government Organization Branch

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday, May 19, 1988

The committee resumed at 3:32 p.m. in room 228.

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT
(continued)

Consideration of Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

Madam Chairman: We will begin. Mr. Moscoe, you know the rules. You have half an hour.

Mr. Moscoe: I see I drew a big crowd here.

Madam Chairman: You can either make the whole half-hour your presentation or you can leave time for questions.

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

Mr. Moscoe: I am going to make the presentation as short as I can. I simply want to reinforce a couple of points that were made this morning and then take you through the practical application of this bill to the 1985 North York municipal election campaign.

I want to reinforce a couple of points and I hope I do not become too redundant by mentioning them. We talked this morning about the campaign period. I think we could live with what is in the bill. It would be nice if candidates could have an extension up to three months if they applied to the commission to get it.

As for the loan problem that was drawn to your attention this morning, I think that is a disconformity that can be and probably should be worked out. I will not repeat myself on that.

The question of registration was raised. When you file with the commission, we do not want you to have to declare that you are running for mayor at least a year before the election. That seems counter to the way municipal politics operates. We would hope that one would be sorted out.

On the loan guarantee, again that was mentioned this morning. I will not bother to mention it again.

I would like to focus a little bit on two areas that have been touched on. One is the limit on contributions, that is, before audit. I am going to reinforce the position of the Association of Municipalities of Ontario that it be dropped to at least \$10,000.

I also want to talk about the question of audit, which we did not. I have with me a resource person who can answer questions for you. His name is Bernard Nayman. He is a chartered accountant. He audited 126 provincial election returns last year and 96 federal. He is probably the most knowledgeable person in the province on auditing politician's election returns.

Mr. Cousens: Does he do the New Democratic Party?

Mr. Moscoe: He does the NDP stuff, yes. But for most of the other parties, the individual riding hires the individual auditor. I am sure he would be happy to give you a schedule of his rates.

Just running through with some facts, I have a few more facts that I have listed. The average automatic campaign, keeping in mind that North York is the second largest city in Ontario, costs \$6,888. That would generate an average tax rebate of \$3,021 in property tax credits or rebates. The average winning aldermanic campaign cost \$8,513 and would have generated property tax rebates of \$6,040. The cost of property tax rebates for all candidates in North York in the 1985 municipal election is \$217,000 and the actual cost of the 1985 election was \$605,371.20. That is the cost to the city or the clerk.

That means that property tax rebates for aldermanic candidates would have increased the cost of the election by 14.5 per cent, contrary to some of the wild figures that have been thrown around in discussion with this legislation. Property tax rebates for mayoralty candidates would have increased the cost of the 1985 election by 12 per cent. The 1985 municipal election cost \$1.85 per equivalent household in North York, that is, the cost of administering the election. Adding tax rebates, would cost North York equivalent households an additional 66 cents a household. That is a pretty small price to pay for an open democratic system.

Nineteen of the 53 candidates did not file returns; that is, one third of all the candidates who ran in the North York election did not file returns. There being no enforcement mechanism in the previous piece of legislation whatsoever, there is nobody to hold them to account. The 19 candidates who did not file collectively garnered 69,000 votes out of the 587,000 votes that were cast for all positions. So they garnered about 12 per cent of the vote. All winning candidates filed returns. At least two of the winning candidates filed questionable returns. Only two of the candidates spent more than the limits imposed by Bill 106. One spent six per cent more and one spent 52 per cent more. He was acclaimed, by the way.

Mr. Daigeler: And he still spent that?

Mr. Moscoe: Yes. That is one of the questionable ones.

Four candidates raised more than they spent. One candidate raised \$12,911 more than he spent. That was 14 per cent more than he spent. One raised \$6,832 more than he spent. That represents 51 per cent of the money he spent. This candidate is reputed to have purchased a Lincoln after the previous election. One candidate raised \$1,453 more than he spent. That is nine per cent. Another one raised \$300 or one per cent.

The cost of an audit for the average candidate in North York would be approximately \$500. This represents a total of \$26,500 and that represents four per cent of the cost of the election. From my perspective, an audit is essential to guarantee a return. An audit is inexpensive. The municipality should pay for the cost of the audit. It is a small price to pay. In politics there is a rule that is called the golden rule: he who has the gold makes the rules. I suggest that it would be incongruous for a candidate to spend money for his own audit. It would make far more sense for that audit to be paid for by an impartial third party.

Mr. Nayman tells me that the average audit for a provincial campaign is \$750. That is the average cost. The average cost for a municipal campaign would be approximately \$500 or less. The least complicated the return, of course the lower the price of the audit. The bogymen that is raised about audits is just that. As far as retroactivity is concerned, I know that question may not have been raised but it is certainly being raised around. That cuts both ways.

Of course, the commission will have to be somewhat lenient in the first year that the bill comes into operation. Any reasonable person would take that position. If a candidate wants retroactivity, he is going to want retroactive tax rebates as well. Therefore, it cuts both ways. Having to dig up who contributed allows you the opportunity to return a tax rebate to those who contributed. I do not see the great problem that some people raised about retroactivity.

As to the complications of this legislation to a candidate, I believe that is pure nonsense. A candidate, the day after he is elected, has to handle a \$10 million to \$12 million budget. Anyone who has been in municipal politics has to consume and understand a pile of paper like this every week. To suggest that a candidate would not have the intelligence to be able to understand a piece of legislation after he has studied it means that perhaps he should not be in municipal politics either and handling our civic affairs.

1540

I reject categorically the concept that this is too complicated for most candidates. I have to remind you again and again that the major complications in this are optional to those municipalities which run complex operations. Only the very largest cities and boards are the ones that are going to take advantage of part III.

Those are my comments. We are looking forward to this legislation, warts and all. We hope that in the short time that is remaining before this bill is passed that we will be able to correct a lot of the administrative details. We know that after the first year or two of operation of this legislation there are other warts that are going to show up but I have confidence that they are going to be corrected.

The important thing is that we have this by the next election. We have a great deal of confidence in our clerks and treasurers. We know they can measure up to the job even though they may feel a little bit shaky about it at the moment. They have done it before and they will do it again. I promise you that after three years this is going to be routine to them just as most of their job is routine to them.

Madam Chairman: Thank you, Mr. Moscoe. Mr. Daigeler.

Mr. Daigeler: I must say I am rather pleased to hear you talk about the bill. I think if there is any group that perhaps could object to it, because I think it would be most likely affected by the tax rebates, it is the large urban municipalities. If you are telling us that you are prepared to accept the bill and have it in place by this fall, I take that very seriously and I am very pleased to hear that.

Ms. Bryden: I certainly appreciate Controller Moscoe coming for us.

Mr. Moscoe: I want to tell you I have such confidence in this legislation that I printed on my fund-raising tickets, "A tax receipt will be available."

Mr. Mahoney: He stuck me with one.

Mr. Moscoe: I stuck him with one too and I am sure that I am going to stick the New Democrats with one too if the Liberals are able to purchase it.

Madam Chairman: This is exhibit number—

Mr. Moscoe: As long as he pays for it, I do not care if you keep it.

Ms. Bryden: I think you have been able to bring us a number of years of experience and also, you are the second one who has given us an exact estimate of what the rebates would cost in a given candidate situation. We had Peel Board of Education this morning do that for us, but it looks like a high figure, which may inhibit the present councils from putting in the rebate before the election because they know the money is going to have to be found in the next election.

Mr. Moscoe: I want to correct you on this. Not a penny will come out of the current budget because the rebates don't kick off until within six months to a year after the actual election; so it will all come out of the 1989 budget. The municipalities and school boards will then have the opportunity to budget for it.

Ms. Bryden: Yes, I appreciate that. It is just that when you are running, you are suggesting if this is in effect, or if you favour this, that you will add this burden to the 1989 budget. Do you think that is going to be a sufficient inhibiting factor to make a lot of local councils and school boards decide not to take advantage of part III of the act.

Mr. Moscoe: It may very well do that if you keep the audit requirement for contributions at \$20,000 because those people who have already collected lots of money from developers do not want to be audited and do not want to see that \$20,000 drop to \$10,000 and they would rather not have the tax credits than be audited and so very few, if any, councils will opt for it if you keep that limit at \$20,000. If you drop it to \$10,000, there is some incentive then to go into part III because then you are going to have all of the liabilities of part II without having any of the benefits. I would urge you very strongly to drop that audit requirement to \$10,000. That is a must or I very much doubt if any council in the province then will opt for part III of the legislation and Steve Mahoney will never get a tax rebate.

Ms. Bryden: That is a very compelling point. It certainly is going to make it difficult for municipal councils to decide whether to opt for part III. Yet we do want the democratic process to have the addition of rebates in order to encourage people to participate.

Mr. Moscoe: I have to remind you that the rebates to municipal contributors will be 50 per cent of the value of the rebates to provincial candidates, and provincial candidates, of course, have a portion of their election that so much a vote is funded directly by the province. It is small potatoes compared to the rebates that you get as a provincial candidate, very much so.

Ms. Bryden: Would you have preferred to see the rebate system put in strictly as a provincial credit rebate?

Mr. Moscoe: No, we believe in paying our own way. Municipalities do not want to go on to the welfare rolls. We will pay for our own election campaign, thank you, just as you pay for yours and the federal government pays for its.

Ms. Bryden: We have not received that opinion from all our deputations.

Mr. Moscoe: There is always somebody in this world who wants somebody else to pay the way for him, but as socialists we do not want that to happen, do we?

Mr. Mahoney: Do you know how long it took Howard to think that up?

Ms. Bryden: I certainly also think your points on the audit and the cost of the audit being paid for by the municipality are very important if it is part of the rebate system. Maybe you should say the province should pay for it, or at least make a small contribution to the rebate system.

Mr. Moscoe: We would be delighted to accept grants from the province. We always are, but we do not want that to stand in the way of this legislation. I do not think it should.

Ms. Bryden: I think it does make it easier to drop the limit for which an audit is required. It does mean that each candidate has one less expense of about \$500, but also that makes for fairness. I know Bernie Nayman would agree with this. It is an essential part of the provincial system, is it not?

Mr. Nayman: Oh, absolutely.

Ms. Bryden: The audit fee in the provincial did not start out at the present rate. I think it is about \$800 now, is it not?

Mr. Nayman: It is \$500 for the return of the constituency and \$800 for a candidate's return. It was raised three years ago. For 10 years, it was \$500.

Looking at the numbers, a provincial candidate spends—the limit is about \$44,000—around \$30,000, my candidates anyway. The audit fee would be about \$800 for such a return. I see here that the numbers are much smaller. Naturally, if there is less transaction, the audit fee would be that much less. I would anticipate an average of about \$500 a return, for North York candidates anyway.

Ms. Bryden: So the present legislation does not provide for the municipality to pay the audit fee.

Mr. Nayman: No, it does not provide that.

Ms. Bryden: This is something that we should be looking at. I did raise this in the debate on second reading and I hope it has been reinforced.

Mr. Moscoe: That makes so much sense. I am sure the government members will want to support that as well.

Mr. Mahoney: I am sorry I was late, but just to be clear, Mr. Moscoe, are you here as a North York politician or are you here for your section of the Association of Municipalities of Ontario?

Mr. Moscoe: I am here as president of AMO. My opinions reflect the opinions of the large urban section of AMO.

Mr. Mahoney: Okay. I take it, just so I understand all of your concerns, that you are basically saying, "Full steam ahead," with the exception of the \$20,000 limit.

Mr. Moscoe: And the other points that AMO has raised this morning.

Mr. Mahoney: Okay, points which are being referred to staff for, hopefully, a consultative process back. But your main point is what turns on the audit, the point at which we turn on the audit.

Mr. Moscoe: If I were expressing personal opinions, I would maybe have 50 other things to say, but I am not here in that capacity.

Mr. Mahoney: We are pleased that you are here in your professional capacity.

Just quickly running through this, out of the aldermanic candidates, there are some 25 that spent below \$10,000, and that is the vast majority, perhaps 85 or 90 per cent.

1550

Mr. Moscoe: I would suggest to you that inflation is quickly catching up. I want to tell you that the price of signs for the next election will be about 30 per cent higher than the previous. I can speak with some authority on that one.

Mr. Mahoney: To take your point to its fullest extent, I just wonder why you would not suggest that any municipality that adopts the tax credit system should require an audit of everybody.

Mr. Moscoe: That is in the bill already.

Mr. Mahoney: But only it kicks off at that limit.

Mr. Moscoe: No, your assumption is wrong. It is in the legislation already. It kicks off at any level.

Mr. Mahoney: The requirement for an audited statement right now in the bill is for anyone who spends in excess of \$20,000.

Mr. Moscoe: Only in part II. Part III requires an audit for all candidates. Anyone who is accepting public funds, of course, requires an audit. The two go together.

Mr. Mahoney: I am sorry. Do I misunderstand this? Can the staff clarify?

Mr. Neumann: Yes, you do. The audit is required for all candidates in those municipalities which adopt the tax credit system. It is for those municipalities which do not adopt the tax credit system where the audit kicks in at either \$10,000 or \$20,000. In the draft bill, it is \$20,000.

Mr. Mahoney: You are looking at this more to be tied into the disclosure aspect of it than you are at the expenditure of public tax dollar.

Mr. Moscoe: That is correct.

Mr. Mahoney: Your assumption or your statements here about somebody buying a Lincoln and that kind of stuff is that there is money being used improperly.

Mr. Moscoe: In a minority of cases, but, yes, that is correct. The audit would end that. Part of the whole purpose of part II of this bill is to end that kind of thing. At least from the statements of the Premier (Mr. Peterson,) I have understood that, but you will not accomplish that with a \$20,000-audit limit. As you can see, there is nobody in North York at that.

If you look at page 2, you can see that the maximum an aldermanic candidate can spend, according to this bill, is around \$15,000 to \$17,000. I have run down the maximum. There is only one candidate in the North York election last, the ward 7 candidate, that would be allowed to spend more than \$20,000. He would be allowed to spend \$20,528, so in fact nobody, except that one candidate plus the mayor, could be audited under the legislation unless you drop it to \$10,000.

Mr. Neumann: I realize the question has not been directed to me, but perhaps I could ask Mr. Manios to clarify this. I realize that there is an interest on the part of a number of people in having the audit at \$10,000 so that there is higher test of accountability and so on. As I understand it from our staff with some legal advice, between the \$1,000 and the \$20,000, there is still a considerable onus of accountability on the candidate even though a formal audit is not required. I would like Mr. Manios to elaborate on that and what other laws kick in if the person files a false statement, for example.

Mr. Manios: In those situations, a statement must be accompanied by an affidavit. The affidavit would attest to the correctness of the statement. The statement is a detailed statement, namely, the candidate is required to identify all those contributors over \$100 and to list the expenses he has incurred during the campaign.

If that person signs that statement and the affidavit and it is found to be incorrect, then the Criminal Code kicks in. Under the Criminal Code, it is an offence and an individual is liable to be punished by jail term up to 14 years. Therefore, the Attorney General will have a primary responsibility of enforcing that section of the Criminal Code in a case where an affidavit has been found to be false.

The other item which is very important is that statement becomes public information. Once he files it with the clerk, it is open to public inspection and therefore anyone could go through that statement very carefully and ensure that the candidate has complied with the legislation.

Mr. Neumann: I wonder if we can get Mr. Moscoe to respond to that.

Mr. Moscoe: That is positive feature, but I want to point out to you that we have legislation now that North York had opted into. Nineteen of 53 candidates, notwithstanding all of that, did not file returns, and nobody had the responsibility for going after them. I would suggest to you that unless an auditor puts his signature on that account, any candidate who— Of course, any candidate who wants to lie will have that opportunity, but if the auditor is going to put his signature on it, his professional reputation goes with that account as well. So I think that \$10,000 is a very important thing.

Mr. Mahoney: I guess the difference is, though, that in the legislation North York has adopted, there is no legislation to back it up, to require a candidate to file.

Mr. Moscoe: Yes, there is.

Mr. Mahoney: Well, only yours.

Mr. Moscoe: No, I am sorry. Under the Municipal Act, the municipality is allowed presently to adopt a bylaw that puts these rules into place, but those rules specifically cannot be amended.

Mr. Mahoney: Once you adopt it, I know. We did not adopt it.

Mr. Moscoe: That is correct.

Mr. Mahoney: There is no requirement in other municipalities to file. This one gives the requirement across the province for people to file with penalties clear, will it not?

Mr. Moscoe: Yes, I understand that, and that is a very positive thing. But I am just suggesting to you that the \$10,000 audit requirement in part II is crucial.

Mr. Neumann: I just wanted to explain that under this piece of legislation there is a penalty for not filing, not only a fine but a prohibition from running in a future campaign. So I think there is more of a requirement to file in this case than in the legislation that has been in place.

I would also like to point out that in having Mr. Manios explain the requirements from the \$1,000 to the \$20,000, I did not want to mislead the committee, but I should add by reminding you that the minister, when he was here, indicated that he is not absolutely fixed on the \$20,000, that he is looking for some guidance from the committee on that. We set it at \$20,000 because we felt, why put candidates needlessly to the expense of an audit if we can handle the accountability in some other way?

Madam Chairman: Thank you. That completes my list. I thank you for your presentation and for the facts and figures that came with it, and you, Mr. Neumann, as well.

Mr. Moscoe: I really had not intended that to be an exhibit.

Madam Chairman: Of course, you are counting on your council approving it too.

Mr. Moscoe: Yes, I am, and you are going to help a great deal if you drop that to \$10,000.

Mr. Mahoney: Can I ask a question on the procedure?

Madam Chairman: Yes, sure.

Mr. Mahoney: When these suggestions come in from Mr. Moscoe or from anybody, are you going to come back to us with the minister's position on dropping it to \$10,000, for example, or do we have to officially, as a committee, request you to do that?

Mr. Neumann: I think the minister will be asked to review all of these suggestions. I think he was looking for some sense of what the committee felt on that.

Mr. Mahoney: That is what I am getting at. Do you want some debate or discussion?

Mr. Neumann: But he indicated on that specific issue that he was open to being persuaded to shift it from \$20,000 to \$10,000.

Mr. Mahoney: Yes.

Mr. Neumann: On the others, we are going to be reviewing all of the proposals that have come out of the hearings, and we will be coming back to you as soon as possible with amendments that are acceptable to the minister.

Mr. Mahoney: Madam Chairman, is it then appropriate that we should be debating that point and trying to come to a consensus that the committee would make a recommendation to the minister? How are we going to get that information to the minister as a committee?

Madam Chairman: Hansard will provide it.

Mr. Mahoney: You have not heard opinions around here. The parliamentary assistant said that the minister had said he was looking for direction from the committee, and I am looking for some way for the committee, not us as individuals, to give that direction.

Mr. Charlton: One way that we provide information to the minister is by amending the bill.

Mr. Mahoney: That may be your way of doing it, but is not necessarily mine.

Mr. Neumann: We do not have the normal makeup of this committee present today, so perhaps next Thursday—

Mr. Mahoney: I am just wondering if we should put it on an agenda to discuss it.

Madam Chairman: The question has been raised and we need to have some clarification on how we proceed with dealing with the item.

1600

Mr. Mahoney: I do not mind saying for the record that I tend to support what the controller is suggesting. I think that if we are going to implement the thing, we should lower the level. I personally think you are not going to catch many people. That is not the word; I do not mean that in a

cops-and-robbers way. Not many people running are going to be required to file an audited statement if the limit stays at \$20,000. It virtually then, in my personal view, just becomes really more of a statement rather than an effective tool.

If it were lowered to \$10,000—the catchment area is a better phrase than catching someone—the catchment area of the municipal candidates would be enlarged substantially.

Mr. Moscoe: I have one question time-wise. We are all anxious to see this come to fruition in as short a time as possible.

Madam Chairman: We are going to be meeting next Thursday to discuss the written briefs and the package Ms. Smith is preparing for us. Then we will be dealing with the clause-by-clause the morning of June 2, I think, and from there it goes to the House.

Mr. Moscoe: I hope the final shape of the bill will be drafted in such a way that the opposition can be supportive of it.

Mr. Ruprecht: Could I ask one question about Mr. Moscoe's exhibit 1—no, that is the date. Anyway, this exhibit about the ticket intrigues me a great deal. I am wondering what will happen to the controller's Mona Lisa banquet dinner if the bill is not passed by June 26.

Madam Chairman: Mr. Moscoe will then have the funds to provide his own credits

Mr. Ruprecht: Does this mean all of us are invited to this spree?

Madam Chairman: If you want to pay \$100, Yes. Thank you very much, Mr. Moscoe.

We have now completed the presentations of the delegations from the organizations we invited. We are anticipating written briefs from a number of people. We hope we will have those by next Thursday and that we will be able to proceed with discussing the material.

Ms. Bryden: Would it not be possible to start the clause-by-clause in the afternoon of next week?

Madam Chairman: If we finish, I see no difficulty personally. I do not know how the other members of the committee feel.

Clerk of the Committee: The ad that the committee ran and the letters that were sent out did say we would accept written submissions until May 31. So if you start clause-by-clause, you are in effect suggesting those written submissions are void.

Madam Chairman: Yes. My apologies. That is right.

Mr. Neumann: It might be an idea to have some discussion on the amendments so that the clause-by-clause could go fairly quickly the following Thursday morning.

Madam Chairman: Maybe that is the way to do it.

Ms. Bryden: Perhaps the minister's parliamentary assistant could bring us some amendments to discuss for the next afternoon. That would be very helpful.

Mr. Neumann: I will do my best.

Madam Chairman: OK. I think the point has been made and taken. Debbie, did you have any other points? We have had a number of people interested in appearing, but they were not on our list of larger organizations that we went through and decided would be part of that. We have asked them to submit in writing by May 31. We are hoping they will do that.

Clerk of the Committee: The only one organization that would have difficulty in submitting by the 31st, I guess, is the city of North York, which deferred consideration of this issue from its meeting of May 16 until May 30. They are asking that comments could be made available during that week. I just need some direction from the committee. Do you want me to write back to them and say the deadline is May 31 or would you like me to write and suggest that they get it in before June 2?

Madam Chairman: I do not see how we can make different rules for anybody. We have advertised what our—

Mr. Charlton: It would not do any harm in reminding.

Madam Chairman: They have been told in writing.

Clerk of the Committee: In fact, twice. Two letters have been sent out to the city of North York saying that is the deadline date. I can send another one in response to this last letter if the committee wishes.

Madam Chairman: I cannot see changing the rules for one group. It is not appropriate. Cynthia, did you want to go over your methodology for providing us with our data for next week?

Ms. Smith: For those of you who have been on other committees, it is quite familiar. We identify the section—it is very similar to the bill—on the left-hand side of the page and the brief title of the section. On the right-hand side of the page in bullet points, we have who said what, and the person will be identified in brackets underneath. So you can look at the section and see who said what about each section. It is just a convenient thing for you to aid your discussion.

Madam Chairman: That will be by organization as well as individual?

Ms. Smith: Yes, and there will be a code at the front if we use acronyms, which we often do. I have worked on it already; so a lot of it is already in the computer. We will see.

Madam Chairman: We are now adjourned until 10 a.m. next Thursday.

The committee adjourned at 4:06 p.m.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT

THURSDAY, MAY 26, 1988

Morning Sitting



STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

VICE-CHAIRMAN: Mahoney, Steven W. (Mississauga West L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Bryden, Marion (Beaches-Woodbine NDP)

Charlton, Brian A. (Hamilton Mountain NDP)

Daigeler, Hans (Nepean L)

Marland, Margaret (Mississauga South PC)

Matrundola, Gino (Willowdale L)

McLean, Allan K. (Simcoe East PC)

Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Substitutions:

McCague, George R. (Simcoe West PC) for Mr. McLean

Velshi, Murad (Don Mills L) for Mr. Matrundola

Clerk: Deller, Deborah

Clerk pro tem: Mellor, Lynn

Staff:

Smith, Cynthia M., Chief, Legislative Research Service

Swift, Susan, Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Municipal Affairs:

Neumann, David E., Parliamentary Assistant to the Minister of Municipal
Affairs (Brantford L)

Manios, George, Policy Adviser, Organization Policy Section, Local Government
Organization Branch

Rogers, Ian, Solicitor, Municipal Affairs

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday, May 26, 1988

The committee met at 10:09 a.m. in room 228.

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT
(continued)

Consideration of Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

Madam Chairman: I think what we should do is start with Ms. Smith's report, the updated one. I have also received correspondence from the city of York, and that is being copied. It is a resolution that will be circulated to you. I believe all of the material I have you have, so we will go from there.

I think what we should do on Ms. Smith's report is deal with the one in front of us, because it is the most up to date. We can start with the sections and perhaps go section by section with Mr. Manios just briefly, one sentence stating what the section is and then the discussion from the Association of Municipal Clerks and Treasurers of Ontario, the Association of Municipalities of Ontario, Ennismore and the Ontario Public School Trustees' Association, whatever. Then we can have some discussion on them, some dialogue, some understanding, and we can each make our own individual perceptions of whether or not we disagree.

At this point, we are not dealing with the clause-by-clause and we do not have the complete submissions because, as you are aware, the written submissions have until May 31 to come in. Those that come in between now and then will be reviewed on June 2, first thing in the morning, and then we will start the clause-by-clause.

Mr. McCague: To what extent are we, as a committee, receiving the submissions that are made by municipalities to the minister on this bill?

Madam Chairman: Mr. Neumann, can you respond to that?

Mr. Neumann: I have just walked into the room. I am not sure what is going on.

Madam Chairman: The question was to what extent is the committee receiving the information that is being forwarded to the minister by municipalities?

Mr. Neumann: As I understand it, talking to Mr. Manios, the minister has received all the material that has been sent to the committee.

Madam Chairman: OK. So we are all dealing with the same information.

Mr. Neumann: But there may be some letters the ministry received over the last several months that have not been tabled here, that have gone directly to the minister and not been subsequently tabled here.

Madam Chairman: Does that answer your question, Mr. McCague?

Mr. McCague: There may be one. The reason I asked the question was I have one from Cumberland, addressed to the minister, dated May 9, and I have had it for about three days. I just wonder if there is any bulk of these kinds of replies around in the minister's office that we have not seen and therefore do not have much of an idea what the support or lack of is for the bill.

Madam Chairman: I have in front of me with the material that I received.

Mr. McCague: Quite a few.

Madam Chairman: Quite a few. They include the township of Derby, the corporation of the city of Thunder Bay, the town of Midland, the township of Orillia and the town of Caledon. Is that the one you are referring to?

Mr. McCague: No. I have Cumberland, and I will give you this copy. I think we probably should be concerned about the expense of duplicating them all if there are 100 over there. If that were the case, then we might have some concern. Otherwise, I think we should have copies of the ones that come in in regard to this bill.

Madam Chairman: Each municipality has been notified that the committee is reviewing the bill. The clerks of the municipalities are very familiar with the provincial legislative process and know that information from the council should come to the committee. I think that while there may well be correspondence directly to the minister, they know to get the information to us, which in the main they have certainly been doing. Why this one particular one did not, I do not know.

Mr. McCague: I think the answer to my question then is that what we are getting are submissions made to the clerk by municipalities. The one that I see here that does not fit under that category is one to the minister from Caledon, but it is copied to you. You probably put it into the system.

Madam Chairman: No. The clerk put it into the system. It went to the clerk.

Mr. McCague: It may have, but you cannot tell that by the way it is addressed at all.

Mr. Daigeler: I think it is a fair question, and perhaps Mr. Neumann can simply answer it. Are there masses of correspondence in addition to what we have seen or are there not?

Mr. Neumann: I do not believe there are a lot of letters that the minister has that should be here, but I can check with his office. Any concerns, I am sure Mr. Manios has reviewed. I can check with the minister on that.

Madam Chairman: The township of Derby addresses its letters directly to the minister with no copies at all and it has found its way to us; so I assume that things directed to the minister are being sent over to the clerk and included in the exhibits.

Mr. Cousens: Perhaps the message from Derby was the important one and the others are not, and therefore we are dealing with filtered information. I would not want to cast any kind of bad intent on the part of ministry officials.

Madam Chairman: No, as a matter of fact, that is not the position of the township of Markham.

Mr. Cousens: Mr. McCague has great sensitivity.

Mr. Daigeler: Long experience. Perhaps there were previous examples.

Madam Chairman: No. The township of Derby, in fact, does not support the legislation, so it is not a matter of getting the information being forwarded, I am sure.

Mr. McCague: Maybe, Madam Chairman, you could ask, for the next time this is considered, for the correspondence relevant to this bill, which was received when the municipalities knew of the bill. I do not want to go back to the task force report or those kinds of things, but the ones that resulted directly from the bill we might want to see.

Madam Chairman: OK. Will you take that back? I would suggest that if there is such information, it be given to us immediately, as soon as possible as opposed to a week from now.

Mr. McCague: OK.

Madam Chairman: You could have quite a bit if there is a good deal of correspondence that comes in with that May 31 target date.

Shall we start with Cynthia Smith's report? On page 1 we are dealing with section 2. Mr. Manios, would you give us a very brief description. Cynthia, sorry. Did you have a question?

Ms. Smith: May I just say something? This is not really a report. This is as a summary which merely has taken all the letters or the summary of witnesses appearing before the committee to last Friday. It does not include the exhibits that came to me yesterday afternoon at four o'clock. That will be next week, or June 2, actually. It simply records the main feature of what their objections were. They are very compressed. Mr. Manios will do the major part of the accounting. This is just a handy dandy guide for you.

Madam Chairman: Thank you.

Mr. Manios: I guess my clue is—

Madam Chairman: So you were not listening.

Mr. Manios: I am sorry. I missed that.

Madam Chairman: OK. What I asked you to do was to give us a brief overview of section 2, for instance. We are dealing with page 1 of the document. Then we can discuss any points that are made by the individuals that have responded that we have in front of us. Yes?

Mr. Mahoney: Have we had an opportunity, or have you had an opportunity, to deal with any of the housekeeping amendments that were put forward that supposedly were agreed to?

Mr. Neumann: I had an opportunity to discuss some of the amendments with the minister. What I was prepared to do was, as the committee goes through this report, to indicate where there is a clear position of the

ministry. There are some where the minister is still giving some consideration to them. I will indicate that and have a response for next week.

Mr. Cousens: It might help to know if we are dealing with them separately because, as I was given to believe last week, they are purely housekeeping. It would ease an awful lot of the preparation. I have legislative counsel hopefully tied up for the next week working on the amendments from my party. There is just going to be a deluge of them because we are very unhappy with this legislation, as you know. If there are housekeeping ones that are in place, that can reduce the amount of work for legislative counsel?

Madam Chairman: That is why Mr. Neumann is going to—

1020

Mr. Neumann: That is what we are prepared to indicate today as we go through it. I did not understand that we are leading the committee through them. Are we ?

Madam Chairman: Mr. Manios will speak to the section. Then the committee will comment, if it wishes, on any of the perspectives that are in front of it as expressed by the various organizations. Then we will move to the next section.

Mr. Cousens: Let me just say that it would be very helpful if the honourable the parliamentary assistant had something in writing to assist us in that process. There is an awful lot of work going into this bill. We are going to have to make a lot of notes here. We might miss something.

Madam Chairman: It will be in Instant Hansard; so you will have that.

Mr. Cousens: We do not get Instant Hansard that fast in this committee.

Madam Chairman: How fast do you get it? How fast can Hansard be available?

Clerk of the Committee: They try to have it out in a day, but the House is sitting.

Madam Chairman: They try to have it out in a day; so the comments will be there.

Mr. Cousens: Not that I would have any reason to be upset with Hansard.

Madam Chairman: No, I am sure you would not.

Mr. Cousens: They might spell my name incorrectly and then I am going to be suffering for the remainder of my term.

Madam Chairman: Having those comments in writing, you are able to utilize those for your research.

Mr. Neumann: If I could be absolutely clear on this, we do not have amendments drafted to present in writing to you today, but as you go through the sections, I can indicate where the staff will be directed to draft such amendments.

Madam Chairman: That will be recorded in Hansard and therefore available to all members of the committee.

Mr. Manios: Section 2 essentially provides that a registered candidate be entitled to be furnished by the municipal clerk with two copies of the preliminary list of electors. Those lists will be available on September 6 of an election year. Any candidate who is registered up to that time is entitled to receive two copies of the preliminary list of electors.

Madam Chairman: Is there any comment from the ministry on this section?

Mr. Neumann: There is a technical amendment which simply corrects the numbers that are referenced. Sections 122 and 143 should read 121 and 138. That is something that came out in the meeting that Mr. Manios had with Mr. Smither from Municipal World. That is a housekeeping correction.

With respect to the main issue that the Association of Municipalities of Ontario raised, the minister still has that under advisement. You may wish to discuss it as a committee. That is the question of distributing the lists to the candidates.

The issue is that under the act a person can register as early as January 1 or as late as the nomination date. At the time of registration, he is not required to indicate which office he is running for. Simply, he registers that he is running for a municipal office and that then entitles him to begin raising funds.

AMO raised the concern that when the list is available for distribution, a candidate could come in, and let's say he is intending to run for alderman and there is a ward system, under the act, they are required to give him the voters' lists for the entire city, when really what he needs is the voters' list for the ward. They requested an amendment to clarify that.

The issue that it brings up is that we would be requiring him to indicate at that point which office he is running for and he is not required under the act to do that until the date of nomination.

We heard both positions from AMO. The one position from AMO and the clerks was, "We don't want to have to hand out these duplicate lists for the whole community if he is only running for a part of the community." On the other hand, we heard from the large urban area people: "We don't want to be forced to say which office we are running for. We want to maintain flexibility."

Madam Chairman: It is the timing that is crucial, when the lists are available as compared to nomination day, at which point you have to state what office you are running for.

Mr. Neumann: Yes.

Mr. Mahoney: What do we give them, two copies of the voters' list? Would it not make sense to give a candidate two copies of the voters' list that he or she requests? If you are running for ward 8 in the city, you would obviously request the voters' list for ward 8. If you are undecided or are thinking of running for mayor or are in a community where you run at large—I think in Guelph all the aldermen run at large; they used to anyway—you would request two copies of the voters' list you need.

It would be up to the candidate to request what he needs. He is entitled to two copies. If he decides to change later and come back and run for mayor, if he gets the ward list and then decides to change and run for mayor, presumably you would give him two copies of the balance of the city. If there are nine wards, you would give him wards 1 to 7 and ward 9.

Madam Chairman: There is also a black market for those lists, and I do not mean outside of the municipal forum but within it, because the candidates get the complete set of lists and then they trade with other candidates for the other wards.

Mr. Mahoney: Sure, especially the incumbents. We used to run around; you would give out all your nonward voters' lists to your colleagues, so you would wind up with nine copies of your voters' list. But that is not something I think we should concern ourselves with.

It just seems to me that if the legislation were in such a way that any candidate, upon registering as a candidate, requests two copies of a voters' list, any voters' list, he would be entitled to receive that. If he requires additional voters' lists, he would have to pay for it.

Madam Chairman: Is there any further discussion on section 2? Mr. McCague.

Mr. McCague: You are saying additional to the two copies.

Mr. Mahoney: If he requires additional to the two copies for the ward he has declared for, he would be required to pay. If he changed his status and declared to run for mayor, then you would provide him with two copies of the balance of the voters' list, beyond what he has.

Mr. McCague: There really does not seem to be any way, though, of stopping a person's registering and, on September 6, picking up all the voters' lists for the municipality. That, I think, is what some people would like to see, but there is really no way of stopping that, is there?

Mr. Neumann: Even if you put in the bill that you require the candidate to indicate which office he at that point is intending to run for, and only give him those, he could be, quite legitimately, a little bit devious and say: "I intend to run for the school board, which is city-wide. Give me all the voters' lists." Then, on nomination day, he could file for alderman. There is nothing to stop that. The candidate has until nomination day to decide which office he is running for.

Mr. McCague: I guess the point is, though, that there really is not much way of accommodating the request of the Association of Municipalities of Ontario in this regard. Is that correct?

Mr. Mahoney: Are you asking me? I think there is. I mean you cannot accommodate both. One group of AMO, large urban, said, "We don't want to give

them all out needlessly." And the other group—I think it should simply be at the request of the candidate. Whatever he requests, he gets two copies of and he makes his own bed at that point.

Frankly, the vast majority of candidates—if you are running for ward 5 in a city somewhere, what the heck do you want with the rest of the list? You are so busy concentrating on your own constituency.

Mr. McCague: Sell them to Reader's Digest.

Mr. Mahoney: It is great at the cottage in the outhouse, I guess.

Madam Chairman: OK. Section 3, then.

Mr. Manios: Section 3 authorizes the municipal clerk to establish polling places that are accessible to the physically challenged and mobility impaired persons. It is a mandatory requirement.

Madam Chairman: Is there any discussion on that item?

Mr. Cousens: It was a presentation by AMO that said to do that is going to make it almost impossible. You are going to make polling places inaccessible, once that view is brought in. That point was made and it is a matter of the government's saying, "Are you going to make it mandatory here, or are you going to have some common sense?"

I thought the presentation last week was clear that advance polling stations were very accessible and that during the regular situation it would be within the community, as it can best meet the needs of that community.

Mr. Neumann: The minister feels very strongly on this point of accessibility. Having sat through many briefings with him, I think he feels it is a matter of policy that the polls should be accessible. In this election it is the two advance polls, and in the subsequent election all of the polls. It may be that between now and then we will have to work with the municipalities to achieve that objective, but I know this is a matter of policy for him.

Mr. Daigeler: I must say that, in all the submissions we have had, that seems to have created the most concern, in fact, in every submission that we have received.

Mr. Neumann: AMO has been quite clear in its support for the plan.

Mr. Daigeler: I am looking at what we did receive, and certainly many of the letters referred to that. I certainly appreciate the philosophical considerations there, but at the same time I think —

Mr. Neumann: The minister has formally discussed this on two occasions with the AMO executive. They have continued their support for his position on this.

Mr. Cousens: You are saying then for this election—is it clear in Bill 106 that it is just the advance polls that have full accessibility?

Mr. Neumann: Yes.

Mr. Cousens: Where does it say that?

Mr. Manios: On page 54 of the bill, section 17 of the bill sets out the time frame within which the provisions would come into force.

Mr. Mahoney: I think David said that AMO has indicated its support. Their concern is that there may be a reduction in the number of polls because of the accessibility problem, but I think that is something we are going to have to sort of wade our way through in the election and hope it is not the case.

Mr. Black: I just want to note that, although AMO supports it in theory, it expresses a concern regarding the accessibility of polls for the 1991 election. It may well be that is one of the clauses that should be reviewed following this election.

Madam Chairman: Is there any further discussion on section 3? Before we move to section 4, we have Susan Swift here, who I understand also has to brief another committee. Susan has provided us with a legal document on the loan guarantee aspect, which is section 163. I would ask that we move to page 16 and hear from Ms. Swift, and then we will go back to where we were.

Do you have a question on section 3? OK, let's deal with that first.

Mr. McCague: No, go ahead.

Madam Chairman: OK. For the members of the committee, it is page 16 in the research report. Susan, could you go through your loan guarantee report for us?

Ms. Swift: Essentially, it is my understanding that there was concern expressed about section 163 of Bill 106 in the sense that the section created a loophole which would, in effect, circumvent the contribution limits provisions of the bill. I have examined the nature of the guarantee, the legal effect of a guarantee. Then I have looked at section 163 itself and I have also provided information on two other jurisdictions that have perceived this as a problem and have provided solutions to it.

Essentially, a guarantee is an independent agreement by one person, that is, the guarantor, to pay another's debt. That is the borrower, and in this case, of course, it would be the candidate. In the event that the borrower, that is, the candidate, fails to make payment on the loan, the guarantor is required, pursuant to the terms of the guarantee, to provide payment.

What happens then, of course, is that the debt is not extinguished in the sense that the debt is paid off. It is now owed to the guarantor, so that a debt continues although it is now owed to a different person. Subsection 163(3) essentially follows that thinking and does nothing to change the operation of the law in that respect.

I think the concern has been that because neither a guarantee nor a payment made by a guarantor on the loan itself is considered a contribution under the bill, the result of that I think is twofold: first, that the payments by the guarantor are not subject to the contribution limits of the bill and second, that contributions under the bill can be made only during the campaign period.

There seems to be nothing in the bill which carries over or follows or traces the conduct or transaction of the guarantor and the loan after the campaign period, so that there is concern. Perhaps looking at the bill itself, there does not seem to be any solution to the situation where a friendly guarantor, for example, guarantees a loan and within the campaign period perhaps pays off the loan.

That is not considered a contribution, but if after the campaign period, perhaps a year later or something, the loan is forgiven, there is no tracing of that under the act. So the concern is, and I think it seems to be at least justifiable, that there is no enforcement or reliable enforcement mechanism to follow that.

Other jurisdictions which have considered this to be a problem and have provided different solutions are Alberta and Quebec. We were unable to find any legislation dealing with municipal election financing that perceived this to be a problem and provided solutions. In any event, the two jurisdictions have regulated this in the context of provincial election financing.

Alberta provides, as you see on page 2 of the report, that a registered candidate may borrow, as in Ontario, only from a financial institution as defined in the act. However, any payment in respect of the loan by anyone other than the borrower, that is, the candidate, shall be considered a contribution unless the person making the payment is reimbursed by the borrower prior to the next required filing.

There are required filings under the act. So if any payments are made by anyone other than the borrower, it is a contribution. The candidate must then reimburse the person who has made the payment to take it out of the context of the contribution.

Quebec, under its Election Act and elections and referendums in municipalities legislation, specifically excludes loans and guarantees from the definition of contributions. There is no maximum amount which can be lent or guaranteed. However, any payment made by a guarantor under a guarantee is considered to be loan and not a contribution.

In other words, it maintains its loan status. I guess the hook or the enforcement mechanism in the Quebec statute is that every independent candidate must repay all his election debts by December 31 of the year following the election. Therefore, the debt is extinguished within a defined period of time.

I think both of these jurisdictions have dealt differently with the problem. The thing they have in common is that there is a time limit within which the candidate must repay or face the consequences under the act. That does not appear to be in existence in this bill.

Madam Chairman: Any questions?

Mr. Cousens: Was there a specific recommendation you came forward with then?

Ms. Swift: No. I did not perceive that to be my position. I just reviewed the bill and looked at other jurisdictions and compared them.

Mr. Cousens: You have not made it any easier for us.

Ms. Swift: I am sorry if that is the case. I just wanted to provide you with additional information.

Mr. Cousens: No, I know. I am teasing. To me the problem is still there. I am sorry.

Madam Chairman: I do not believe that Ms. Swift is allowed to provide us with recommendations.

Mr. Neumann: The comment I have, as you are aware, Madam Chairman, is off the cuff. I suggested a possible solution when this matter was first raised by the Commission on Election Finances and that was to limit the guarantee to the \$750 maximum contribution limit, and a person could get a collection of guarantors, if he needed a little larger contribution than \$750. I have reviewed this with our staff and with the minister. The minister is aware of the issue and has it under consideration at the moment.

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Madam Chairman: Any other questions? OK, thank you. We will move back then to section 3. Mr. McCague, you had a point you wanted to make.

Mr. McCague: Various members have spoken on the request of some associations and municipalities to not be faced with having to have the polling places accessible to the disabled. There have been several attempts in years past to make places accessible and the municipalities always raise a fuss. Unless they are faced with the eventuality, I suggest to you that they will be fussing for a long time about it.

Therefore, I think we have no choice, as a Legislature, but to go along with the legislation as proposed and put the pressure on them. They can always move, if they have to. They are reluctant to do that, especially in the older parts of Ontario, but they can usually move to something that has easy access, like a school, which is what has happened in my area of the province..

I suggest that it remain as is and we put the pressure on them to take care of everybody. I do not think anybody ever was disenfranchised because of running out to the curb and giving everybody a vote, in my part of the world at least.

Madam Chairman: It has been very difficult for some people on occasion. I know in my own area there have been problems.

Then we move on to section 4. Mr. Manios. Is that really a problem? It is the amendment on proxies.

Mr. Manios: I am sorry. I kind of missed my sequence here.

As I understand it, the Ontario Public School Trustees' Association supports the bill in providing access to voting, the standardization of voting hours and the two advance polls to make it more accessible.

Madam Chairman: It seems very straightforward. Any discussion on that?

Mr. Mahoney: Maybe I am confused a little bit. This says the OPSTA supports it. Is that to assume that everyone else supports it?

Ms. Smith: Nobody else made comments.

Mr. Mahoney: AMO did not comment on it?

Ms. Smith: It did in another area further down. It just made a sweeping comment. In fact, I am going to take this out of the next draft, because it is a noncontentious statement right there. There is more under section 6.

Madam Chairman: OK, let's move on then to section 5.

Mr. Manios: Section 5 repeals, effective 1991, the provision that an elector could walk into a polling place, make an application to have his name entered on the list and vote.

Madam Chairman: Suggestions from AMO. Mr. Daigeler, can we go through? Mr. Neumann, have you any response from the ministry?

Mr. Neumann: First of all, we should indicate from the ministry's perspective that this was placed in because the new enumeration process, we feel, will be more accurate, more up to date. It gives a longer time for revision, and there should be no reason for swearing someone in on the day of the election. That can be subject to abuse. Things are quite hectic on that day, and in some areas of the province poll clerks may not know the person coming forward. It is the feeling of the ministry that this matter is necessary as part of the enumeration process. Having said that, I have made the minister aware of these concerns and he is reviewing it again.

We should be clear that it does not affect the 1988 election, that in 1988 the practice of swearing people in at the poll continues. But we feel that by 1991 the new enumeration process should be well in place. As you know, it provides for the temporary voters' lists being available quite a bit earlier than has been the practice in the past and for a longer period for review and revision.

Mr. Daigeler: I appreciate that clarification. At the same time, I think this was one of the points which has been raised quite strongly and quite often. My own personal view is that we should make it as easy as possible, especially at the municipal level, to participate in the vote. That would be my feeling.

Mr. Mahoney: Have we ever considered making it 1994 instead of 1991 for this change? Even though it is a three-year term, it is only two instances we are looking at, the 1988 occurrence. The reason I ask that is that then we would have two opportunities to experience whether it is still a problem. If a pile of people show up on election day with a document in their hand asking to be sworn in at that point, then you know you still have a problem. Maybe I could just suggest that and you could talk to the minister about it.

Mr. Neumann: We could look at it the other way. We could leave the bill the way it is, and if it appears to be a problem, having gone through this election, we could change it to 1994, as you are suggesting.

It is the feeling at the moment that it could be abused on election day. We are getting some indication verbally from municipalities that it has not been a problem in the past, that they have had very few requests on election day. Some municipalities say the opposite. Experience does vary considerably across the province.

Mr. Mahoney: The idea is that if it is not a problem, why change it? If it is a problem, maybe we should identify whether the new system will create the problem and have the experience of going through at least two elections. That is all.

Mr. Neumann: It might discourage people from using the revision period by saying, "Well, I can just go in on election day." I think it undermines the whole idea of the new enumeration system with the longer revision. I think it could be self-defeating.

Mr. McCague: There is no single item that can upset a municipality on election day, especially a small one, more easily than this one. All that has to happen is that someone who is well known in town gets left off and he goes in to vote at 9 o'clock or 10 o'clock in the morning, and is disenfranchised, and by evening that is all around town. It really raises hell, the same way as it raises hell in provincial elections, where there are the urban and the rural designations. In the urban, as you know, you cannot vote if you are left off and in the rural you can get sworn in.

Mr. Neumann: Mr. Manios has pointed out to me that all we are eliminating is the swearing in at the poll by the polling clerk. The person can still go to the municipal clerk and get a certificate on election day.

Mr. McCague: You can do that?

Mr. Neumann: Yes, to catch the person who has not taken advantage of all the revision periods and the new proxy system where, if you are going to be away, you can delegate to someone.

Mr. McCague: OK. I was rather supportive of Mr. Mahoney's idea of making it 1994, to give ourselves two elections to witness what was going on. Is there any obligation on the municipal clerk to have his office remain open during the hours the polls are open?

Mr. Neumann: I think so. Is it not until five o'clock?

Mr. Manios: Yes. His office is open the entire day on election day. He can issue certificates only until 5 p.m. on election day. But certainly he is the person who is in charge of the election and therefore his office will be open.

Mr. McCague: I can tell you that if there is a nuisance factor in this whole thing, that will be it, the person who cannot get on the voters' list from 5 o'clock to 8 o'clock, whatever it is. It may not be important in Brantford or Mississauga, but it is important in the small municipalities in Muskoka and many parts of the province. I think that underscores the point that Mr. Mahoney's idea of 1994 is better and also gives the government, or whatever one it may be in that day, the opportunity to withdraw this prior to that.

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Mr. Neumann: I could just conclude by saying that the argument I was presenting is the argument for why the bill was drafted the way it is. I have also pointed out that these concerns raised by the Association of Municipalities of Ontario and the Association of Municipal Clerks and Treasurers of Ontario have been drawn to the attention of the minister and he is reviewing.

Mr. Black: I would like to pick up on what Mr. McCague said. It could be a 25- or 30-mile trip in some of my municipalities to get to have a vote. People just will not do it, but what they will do is bitch like hell for the next year and a half about being deprived of their right to vote. I have some difficulty, quite honestly, with this section.

With all due respect to Mr. Mahoney, I think I heard the parliamentary assistant say it has not been a problem to date, and if it has not been a

problem, why are we fixing it? My preference would be to go with the existing wording, which allows them to be sworn at the poll, and if it is a problem, then bring in amendments to legislation to deal with it.

Mr. Neumann: The reason it was drafted this way is a feeling that it can be subject to abuse on election day. In a lot of confusion, someone could come to the polling station and be sworn in. It is easier to check for errors if they are required to add their name to the list during the revision period, and there should be perhaps some obligation on the voter to use that fairly lengthy revision period.

We have a new enumeration system we are testing out. We feel it is going to be much more accurate. Mr. Manios has pointed out to me that there are revisions at the federal level that are going to be moving in the direction of eliminating the swearing in at the polls. That seems to be the general thrust.

Mr. Owen: In the cases I have been involved in and watching, I really cannot recall anyone or any story of anyone being sworn in to vote on election day who really should not have been, so I am not aware of the problem we are trying to address.

The other thing that concerns me is that we are bringing in a new system to get our voters' list put together. In all of my years of being involved, I have heard stories of the post office and whether or not the mail gets through. With our present system we have always have difficulties, the odd clerical error or human error of getting names missed on the list. We compound that possibility—and we still have that, because even when they come into the municipality they still have to compile names—if there was an error made or if we had the post office missing something that somehow did not get through. Most people who vote are not all-consumed with politics and the issues and the people who are running, but if they have some sense of responsibility of being a good citizen, most of them go and vote on election day, without giving it too much thought beforehand to check things out.

I have the same problem that George McCague and Ken Black have mentioned, that some of my people in some of the municipalities that I represent would end up driving maybe 15 or 20 miles one way to get put on the list. Most people would resent that expense and that time and would not even be able to do it if they were working and found out after working hours that their names were missing.

If the rest of the province is like my situation, I do not think we have a problem and I think maybe we are trying to kill something that is anticipated rather than real.

Mr. Daigeler: It is precisely that general thrust Mr. Neumann spoke about which I do not like to see developing. Quite frankly, coming from a European background, where this kind of thing that is in place in Canada would be unthinkable, everything has to be regulated and you can never step in on the election day and get on the list, I was very impressed with this when I came here. It is the beauty of the system, to be so trusting towards the individual. To take that away, I think takes away some of the confidence we have in each individual person. I do not like the general thrust in which we are moving, both at the federal level and here. That is why I think we should just leave it the way it is. I think it is great that this country can operate on this basis.

Mr. Neumann: If I could just add one other point, Mr. Manios has drawn to my attention that this provision was originally recommended in the review committee that toured the province. They recommended it on the basis of some identifiable problems that did occur, where certain polls—

Mr. Owen: Do you know when that was?

Mr. Neumann: Perhaps Mr. Manios could get that. Do you know the incidents?

Mr. Manios: In 1982 and 1985, there were instances in large urban municipalities where candidates brought individuals half an hour before the poll was to close and threw those polls into chaos. It required extraordinary measures on the part of the deputy returning officer and the clerk to permit those individuals to vote, as they were within the confines of the poll. At the same time, some of the electors who were on the list were very upset that they had to wait in long lineups in order for those individuals to take the oath. It created a real problem.

The advisory committee felt that, in view of the new enumeration system and the ample opportunity for the electorate to get on the list and the opportunity to get a clerk's certificate up to 5 p.m. on election day, it is really unnecessary to have the administration of the election thrown into chaos when somebody brings in, say, a bus load of electors. It would be very difficult in cases relating to legal proceedings to prove whether they were bona fide electors or not.

In fact, in 1982, one of the candidates in the city of York was questioning form 19 and was attempting to gather evidence whether those individuals who had signed those forms were bona fide electors. That, in the mind of the committee, created a disrepute for the system and it felt that should be eliminated.

The committee also felt it should be made available for the 1988 election and that the information collected on the form 19 be sent to the Ministry of Revenue so that the list will be updated. Right now, those form 19s, as we call them, are not used for any purpose. They are used just for the election. The information is not given to anyone and, therefore, the Ministry of Revenue does not have an out-of-date mechanism for those lists.

Mr. Owen: I am wondering, as it is unheard of in my experience up our way, whether we have the same situation Mr. McCague mentioned earlier about the urban and the rural adding to the lists on election day, and if we maybe have an urban situation here which we are not aware of. Should we be either putting this off or at least distinguishing between urban and rural again? In the city of York, I do not imagine you would have a 20-mile ride to get put on the list on election day as you would in our townships. Mr. McCague has reminded us of what goes on provincially and I am wondering if this is another situation.

Mr. Neumann: We could report back.

Mr. Owen: That is fine.

Mr. McCague: I think the point has been made that at least two of the people on the task force were from large municipalities. Not that they were unsympathetic to smaller ones, but we have a parliamentary assistant who

is from a larger municipality and we have a minister who is from a larger municipality from a mayoralty experience. We do not want to forget about those smaller municipalities out there.

The neatest compromise I have seen out of all this today is Mr. Mahoney's suggestion that, if you cannot accede to the wishes of what Mr. Black and Mr. Owen would say for the smaller municipalities, then you probably can accede to the request to leave it till 1994 and see how it works and run through the same reporting mechanism that Mr. Neumann was suggesting for the next two elections just to see what really should happen for the 1994 election. If this new prohibition on getting sworn in from five until the polls close looks as if it will work, fine. But really we are talking about two different worlds when it comes to an election. I guess that is why the province has an urban and a rural designation. I do not think if we want to get into that, Mr. Neumann.

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Mr. Neumann: That would be pretty hard to define.

Mr. McCague: Maybe you could push the minister fairly hard to agree to 1994.

Madam Chairman: I think we have covered this one fairly extensively. We are going to move on to subsection 6(1)..

Mr. McCague: Did we win, though?

Madam Chairman: We have already covered some of it. I suggest that since there are some 160 sections here, we move a little faster and keep our comments concise and not repeat what somebody else has said.

Any comments on 6(1)? I think everybody is clear on it. We have had discussion of the points that are being made here. Subsection 6(3).

Mr. Black: Keep going quickly, but not too quickly.

Madam Chairman: OK. Let me know when you want to speak.

Mr. Black: On the need for a second mandatory advance poll in rural areas, once again, and the point has already been made, we have two Ontarios here. I represent the other Ontario, the one north of Highway 7. It does exist and it is a pretty prominent part of this province. I would hate to think that we are losing sight of it by wanting to move quickly.

I have a concern about a second mandatory poll in some of the very small rural municipalities. I think as an option it makes a great deal of sense. I am not sure it makes a great deal of sense from the point of view of some very small rural municipalities at all, though. I think that point has been made by one or two of the people who have made submissions.

Mr. Owen: I think that no matter how small the municipality is, they all have sufficient funds to be able to manage the second advance polling day. It is difficult to have an all-encompassing rule for the whole province, but sometimes we have to have it. I think most smaller municipalities could manage it. It is for the democratic process to succeed. I have reservations about it but overall, I think we should move with it to accomplish it for the province.

Mr. Black: I have a point about the AMO response. They also identified a concern here which is not listed.

Madam Chairman: Sorry, it is AMCTO.

Mr. Neumann: You have to look at this one in relation to the provision for accessibility for the handicapped and the physically challenged. In view of the fact that it is the feeling that for this particular election only the advance polls are required to be accessible, we do need the second mandatory advance poll. We feel it will increase accessibility generally for the voters and give them a better chance. It will perhaps reduce their need to rely on proxies, and I think it is in keeping with the thrust of the bill towards greater accessibility.

Madam Chairman: Any further comments on 6(1)? If not, we will move to 6(3).

Mr. Manios: Voting hours are standardized, from 10 to 8 to 9 to 8, for the advance polls.

Madam Chairman: I think we are on the other section.

Mr. Manios: I apologize. I was reading the wrong section.

Subsection 6(3) relates to the accessibility to polls. It is similar to section 3.

Madam Chairman: Any discussion on that? OK. We will move on then to section 7; proxy voting.

Mr. Manios: Section 7 eliminates the conditions for proxy voting and permits any individual who is unable to vote in a regular or an advanced poll to vote by proxy.

Mr. Neumann: The ministry feels that the new proxy system is necessary. There have been a number of clerks who have indicated the difficulty of saying yes or no to people and saying to a voter who is an adult, "Your reason for being away on election day is not as good as this others fellow's reason."

It was felt that if a person were away on business for whatever reason or had to be away for personal reasons on election day and wanted to assign a proxy vote, he or she should have the right to do that without the clerk having to pass judgement in any form. We feel that abuse is being minimized by restricting it to one proxy per voter, other than within the immediate family.

Madam Chairman: OK. Is there any discussion on that section?

Mr. Cousens: What you are really saying is that there is no movement at all by the ministry on that.

Mr. Neumann: Right.

Mr. Cousens: Can I just raise this because I probably will not have the time to discuss it next week when we get into the amendments and so on. I want to use the worst example and I just hope the media do not misunderstand it.

Would that mean that someone who is doing some campaigning in a hospital for the mentally ill might go through and suggest to people at a gathering of patients, should they have that opportunity, "Would you just sign this little form and then we can sort of look after your vote for you on the basis of that."?

Madam Chairman: Section 7, page 2.

Mr. Cousens: Is that possible under the guidelines you have given?

Mr. Manios: When an individual signs a proxy, his or her signature has to be witnessed.

Mr. Cousens: Have some other people in the same room witness it. They are all Liberals, by the way.

Mr. Mahoney: You drove them there.

Mr. Cousens: I drove them there. I am sorry, I did not mean to cut in on our auspicious legal counsel.

Mr. Manios: Then that form is taken to the clerk to ensure that the individual is on the list of the electors, and he issues a certificate. If it is found that that individual abuses the proxy provision and there is undisputed evidence, it can be taken before the court and prosecution could occur that he is in violation of the provisions of the act.

The proxy is similar right now if you are away on business, and that is granted. Anyone can say, "I am away on business." This was recommended by the advisory committee because it felt that the conditions are very archaic for requiring a proxy and that it should be brought into the modern world whereby anyone who says that he is unable to go to a regular poll could do it.

If you recall, Mr. Nigh, the chairman of the subcommittee on elections of the Association of Municipal Clerks and Treasurers of Ontario mentioned that very few individuals are prepared to give up their proxies or their right to vote. They would prefer to cast their own ballot. So I do not see that as being abused.

Mr. Cousens: OK. Having heard what ministry counsel has said, what I really hear you saying is that you agree with me that it could happen because there is nothing that is illegal or breaks the intent of the wide-open proxy use that could be implemented.

I am coming back on the point for the sake of the parliamentary assistant to look at some limitations on it. I think it is something that is subject to abuse. I take back any offence that there would be Liberals in a mental institution. It is probably Conservatives who have been driven there by some of the legislation.

Madam Chairman: We are all talking about municipal politics, which is certainly nonpartisan.

Mr. Black: This committee could be in that institution.

Mr. Cousens: This committee could be in that institution.

Mr. McCague: Mr. Neumann, maybe you can help me. One voter can have one proxy?

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Mr. Neumann: If you went into a nursing home and wanted to gather a whole bunch of proxies, you would need a different person for each individual—

Mr. McCague: Which is quite a limitation in itself.

Mr. Neumann: —other than within the immediate family. If you had your mother and father in a nursing home, as a son or daughter, you could go and get their two proxies.

Mr. Black: You came from a big family, George.

Mr. McCague: Very good size, yes.

Madam Chairman: The gentleman at the far end, whose name I have forgotten.

Mr. Rogers: Ian Rogers.

Madam Chairman: Sorry. Do you wish to make a comment?

Mr. Rogers: If I may just comment, I certainly am inclined to agree that there is room for abuse in the present system and possibly with an extended system where the criteria are completely dropped. There was at least one instance of which I am aware where there was abuse of proxies, and it did involve persons in hospital. The particular mayoralty candidate happened to be a doctor, and he certified quite a few patients as being incapable of voting. I am sure I will be asked where this occurred. It was the township of Georgina.

Mr. Black: We just throw them them of office.

Mr. Mahoney: This then really does not address if it is one person, one proxy. I was not totally clear on that. So if you cannot vote, you can give me your proxy vote, but you cannot give me more than one proxy vote to take in.

With regard to the problem I referred to, yesterday we were Bruce county. Sauble Beach in Amabel township has a population of 2,900 people and a list of electors of 6,700 people. Its concern is that those 4,000 people are not getting an opportunity to vote, and we discussed the fact that the proxy situation might help that.

Interjection.

Mr. Mahoney: I know there are two advance polls, but you still have to go up to the cottage to do it.

Mr. McCague: If you don't give a damn, don't go.

Mr. Mahoney: Yes. The idea was they wanted to have an advance poll on Thanksgiving. Of course, that is not very feasible.

I recognize the abuses of people walking in with suitcases full of proxy votes, but did the ministry look at more than one proxy being able to be delivered to the clerk's department or something along those lines?

Mr. Neumann: I think it was felt that was open to abuse and that is why it was limited to one. This was a liberalization of the current proxy system, I think the reason being having to give the specific explanation. If the voter felt for his own personal reason, whatever it was, that he could not vote on election day and he wanted to give his vote over to another individual, he should be entitled to do that. That is his decision. But the system we are employing prevents a candidate's agent from going around and collecting several hundred proxies.

Madam Chairman: We now move on to sections 9 and 10, which are the recount section.

Mr. Manios: Sections 9 and 10 of the bill provide for a new process of dealing with recounts. The recount officer is the clerk, unless he or she appoints someone else. Section 10 sets out the procedure for the conduct of recounts, including automatic recounts.

Madam Chairman: Any questions?

Mr. Cousens: Was there not some concern about who will pay for it? Has there been a change on that?

Madam Chairman: I do not see it here in our notes. Next page, section 88?

Mr. Mahoney: The determination of cost was changed.

Mr. McCague: Where does the point about the one poll, half a vote, come in?

Mr. Neumann: Are you talking about the half a vote per poll?

Mr. McCague: Yes.

Mr. McCague: The minister is prepared to see that one amended so that it is half a vote per poll or 10 votes, whichever is bigger.

Mr. McCague: Thank you.

Mr. Neumann: We will prepare such an amendment. Our staff is preparing the exact wording.

Mr. Black: There were some questions raised about the role of the municipal clerk in recount situations by the Association of Municipal Clerks and Treasurers of Ontario. I wonder if the minister has had a chance to look at those recommendations again or reconsider the position?

I think it had to do with the recount officer or the person appointed in his stead not being eliminated from conducting a recount, based on the fact that there would be scrutineers present.

Mr. Neumann: Perhaps I could ask Mr. Manios to comment briefly on it. We do not feel this change is necessary. We feel it is covered in the wording of the bill presently.

Mr. Manios: Section 83 of the Municipal Elections Act provides that the clerk of the municipality is the recount officer unless he or she appoints some other individual at the same time as he or she appoints the election officials under section 4 of the Municipal Elections Act.

Section 4 of the Municipal Election Act authorizes the clerk, in his capacity as returning officer, to appoint a DRO, the poll clerk and revising officers. At the time that he makes that appointment, he or she should decide whether he wants to be the recount officer or appoint someone else.

The bill also provides that if the recount officer happened to be the individual who did the original counting, to ensure that it is impartial, the authority is provided to have a replacement appointed.

Mr. Black: Is he required to have the replacement? Is the interpretation then that if he was the original returning officer, he or she would not be able to be the recount officer?

Mr. Neumann: It says, "He shall immediately appoint a person to act."

Mr. Manios: If he participates in the actual counting of the ballots, for that particular polling subdivision, he is required to appoint someone else to show that he is impartial in the proceedings. If he has not participated, if he simply handled the ballot box from one place to another, then he really did not participate in the actual counting of the ballots. That is covered in subsection 84(6).

Madam Chairman: Just for clarification, pages 6 through 9 of this report are all the ones dealing with the recounts. We seem to be jumping from topic to topic on that. Are there any further questions or points on the topic of recounts?

Are there any particular points the ministry or the parliamentary assistant to the minister think should be made on those sections running from 83 through 88?

Mr. Neumann: There are a couple of technical amendments we will be putting forward. There has been an omission. On page 3 of the bill, subsection 85(4), where it says, "subsection (3) does not apply," should read, "clause (3)(c) does not apply." That is an editing correction.

Then with subsections 82(2), 82b(2) and 87(2), in meetings between the staff and Mr. Smithers of Municipal World, it was suggested they be amended to deal with cases where the clerk delayed in making a declaration of results, and we are preparing an amendment to cover that.

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Madam Chairman: OK. Having covered the section on recounts, we move to page 10, which is part II, election contributions and expenses.

Mr. Neumann: Just a minute. There is another one here.

Madam Chairman: Back on recounts?

Mr. Neumann: On recounts, yes. In subsection 86b(1), where it mentions local council, school board or local board and regional council, we would like to add "metropolitan council"

Also, subsection 87(9), on page 7 of the bill, inadvertently restricted the costs that a judge could order on a recount. In one section of the bill it requires that \$100 be deposited by the person requesting the recount, and in this section, it says that the payment shall be out of the \$100 less costs. As

was pointed out by the Association of Municipal Clerks and Treasurers of Ontario, the award could clearly be more than \$100, and we want to clarify that the judge can award costs greater than the \$100. It can be taken out of the \$100. The \$100 can be payment towards the award, but we are preparing an amendment to indicate that a judge can award whatever he or she feels the costs should be.

Madam Chairman: That completes the section on recounts from the ministry's perspective.

We are back to page 10, part II, election contributions and expenses. Mr. Manios.

Mr. Manios: Part II deals with election expenses, election contributions and limits on expenses and contributions. It defines the campaign period for which candidates could raise or spend funds, provides a registration mechanism for candidates to be recognized in law and it sets out the procedures which candidates and municipal clerks are required to follow with respect to the regulation governing election finances.

Madam Chairman: The only comment we have in our document is one from the Association of Municipalities of Ontario supporting that specific part. Section 121.

Mr. Cousens: AMO asking for limitations.

Madam Chairman: I am sorry. It supports the suggested limitations on the election contributions and expenses. That is the way I read this report.

Mr. Cousens: So there is just no change in what they are saying?

Madam Chairman: No, they are supporting.

Then we move to section 121, the definition of the campaign period. Mr. Manios.

Mr. Manios: The campaign period is defined, for the purposes of a regular election, as commencing the first day in January in an election year and ending three months after polling day. For the purposes of a new election, it is defined as commencing on the day the order or the bylaw is passed to hold a new election and ending three months after polling day.

Madam Chairman: We have two comments here from AMO. Would anybody like to discuss any of those?

Mr. Neumann: I reviewed this briefly with the minister. He is, I think, leaning towards leaving the bill the way it is, but he wants to give this one some further consideration.

We feel, generally, that the campaign period as specified in the bill is adequate. It does not require a candidate to register. I think some of the feeling is that they will have to register in January and they do not want to get started that soon. In some of the urban areas, it may be necessary for people to start in January and start fund-raising. We want to recognize the reality. On the other hand, it does not require them to register that early. They could wait until June or the summer to register as candidates. In some of the smaller communities, that is likely to happen. It reflects the diversity of the province.

Madam Chairman: We will move on to section 122, registration. Mr. Manios, do you want to comment there? Mr. Daigeler, I will put you on the list.

Mr. Manios: There is another point on page 10, the association "believes that the same provision as contained within the Election Finances Act, which is intended to limit the possibility of contributions from inactive corporations—

Mr. Neumann: Inactive corporations?

Mr. Manios: From associated corporations.

Mr. Neumann: I think we have indicated that we will prepare an amendment to deal with that.

Madam Chairman: Now we are on section 122, if you are ready to move on, or are you still on section 121?

Mr. Daigeler: Yes. I am not sure whether that comes in somewhere else, but—

Mr. Neumann: Associated corporations, I believe, rather than inactive.

Mr. Daigeler: There was some reference, I think it was the AMO, that said there should be a possibility to extend the campaign period for longer than six months. Is that listed here anywhere?

Mr. Neumann: I just commented on that. They wanted the campaign period to start six months prior to the election and to allow fund-raising to go on six months after the election.

Mr. Daigeler: Did they not even say for an unlimited period, I think? I cannot remember what was said.

Mr. Neumann: That is in another section of the bill. That is under the tax credit system. There was a recommendation from someone that the election commission be allowed to extend the fund-raising period for candidates.

Mr. Daigeler: That is right, that is in another section. We will get to that.

Mr. Neumann: If I may comment on that while the member has raised it, it is our feeling that this would give an unfair advantage to people who already have an advantage in fund-raising. In other words, candidates who have the tax credit or rebate system in place already have the advantage of the rebate in raising funds, and the election commission will deal only with those situations, so we are, in effect, saying that candidates whose municipalities have not introduced the rebate system do not have the option of an extension and candidates that do have the option of the election commission extending it. We feel that gives an unfair advantage there; that everyone should play by the same rules in terms of having the cutoff three months after the election.

Madam Chairman: OK. Let us move to section 122, registration.

Mr. Manios: Section 122 requires any person who proposes to be a candidate to register with the municipal clerk no earlier than the first day of January of an election year and no later than the nomination date. Once he is registered, he can begin to raise or spend funds for the purposes of election.

Madam Chairman: Any discussion on that?

Mr. Neumann: We have already made comments.

Madam Chairman: OK. Then we will move on to sections 124 and 125, the contributions.

Mr. Manios: Sections 124 and 125 deal with contributions, who can contribute, what amounts and the procedure for making contributions.

Madam Chairman: Any discussion?

Mr. Daigeler: Is that the place as well where this idea would come in not to have any kind of reporting or recording for anything that may be less than \$1,000? That was raised, I think by AMO, and then supported by the courts. Would that be the place? Again, I do not see that listed here.

Mr. Manios: It is not covered under sections 124 and 125 as the bill is presently worded. Yes, it was raised by the Association of Municipal Clerks and Treasurers of Ontario and AMO—

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Mr. Daigeler: No, not by AMO.

Mr. Manios: I am sorry, by David Barrett.

Mr. Daigeler: They did not raise it, but it came up later and they supported it.

Mr. Neumann: It was one of the individuals who said it was his personal recommendation, not AMO's position.

Mr. Daigeler: But the executive came and said that they supported it.

Mr. Neumann: No, I do not believe so.

Mr. Daigeler: That is the note I made.

Madam Chairman: Would you like to deal with section 125?

Mr. Manios: Section 125 sets the conditions for contributors making contributions. It prohibits a certain category of groups from making contributions. It deals with group contributions, namely, a group contribution could only be given as to the individual sources of the amounts making up the contribution. It also provides that the candidate has to issue receipts and record the contributions received.

Madam Chairman: Any discussion on that?

Mr. Black: For clarification, if I can return to subsection 124(9), am I correct in assuming that under that section, regardless of the amount of money spent, every registered candidate shall submit a written financial statement complete with receipts and claims for those expenses? Even if he or she did no fund-raising, he or she is required to do that.

Mr. Manios: If the candidate spent money that belonged to him, personal funds or the spouse's funds, yes, he will be required to fill out a separate statement when he makes the financial statement. But if that amount did not exceed \$1,000, he simply does a statutory declaration. If you look at section 132, it says "subject to" the other subsections, and if the candidate raised or spent no more than \$1,000, then he or she could merely file a statutory declaration.

Mr. Black: Thank you very much.

Mr. Daigeler: That would then really satisfy what was proposed by AMO.

Mr. Neumann: If I might comment on that, it was proposed as a simplification that at the time the candidate registered as a candidate, he or she would state an intention to spend less than \$1,000. Therefore, when the election was over, he or she would not have to go back with a statutory declaration, "I have spent less than \$1,000."

Mr. Daigeler: It comes to the same thing.

Mr. Neumann: I think there is a matter of principle here, and the minister agrees, that stating an intention is not good enough. We do not feel that it is that much of an onus on a candidate to come in after the election and file a simple statement, "I spent less than \$1,000." But stating it some months ahead of a campaign removes from him the onus of complying with all of the regulations.

If for some reason he goes over \$1,000, then he does not even have to come in and visit the clerk's office at all. He can do it on his own hook, but there is no reason to monitor it. We feel it really is not that much of an onus on the candidate to simply come in and file a statutory declaration, "I have spent less than \$1,000." He does not have to provide any other details.

In fact, in producing the forms and in discussing it with Mr. Manios, it could be on the three-part form where they register as a candidate. They come in with their nominations, and the third part is the statutory declaration that they have spent less than \$1,000. They could mail it in or bring it in after the election, but we would want to have them go through the election process and then make the statement that they have spent less than \$1,000.

Mr. Daigeler: I agree with what you are proposing. I think it has the same effect as what was suggested by AMO. In other words, if you are under \$1,000, you make the bureaucratic requirements as small as possible. I think that is good.

Mr. Cousens: Could someone, legal counsel or otherwise, explain the way these sections we are now dealing with affect a registered political party in Ontario and how registered political parties can assist political candidates, the impact of this legislation on the revealing of data or the support they give or the extent that happens? Does it have any implications?

Mr. Manios: Subsection 125(4) prohibits registered candidates from accepting funds from a federal political party or a provincial political party. Therefore, federal or provincial registered political parties cannot contribute to the municipal candidates.

Interjection: Could riding associations?

Mr. Manios: No.

Madam Chairman: OK. That is very clear. Moving on then to section 129, I think we should deal with the whole of section 129, that is, subsections 4, 5, and 6.

Mr. Mahoney: What is the response to Caledon's problem, which they wrote in about. They have a municipality of 270 square miles, a long way to go. As Mayor Kolb said in his letter, he spent about \$18,000 last time running for mayor, which is the limit he will be at this time. With inflation and everything, it would seem to put pretty substantial restrictions on it.

Mr. Neumann: I think our response is we have had some comments that the limits were too high, that no one is going to be affected by it, so in a way we are pleased to see this letter that somebody is going to be affected.

The answer is that everyone will be playing by the same rules. If it is somewhat of a hardship for the incumbent in that municipality, his opponents will also be under the same restrictions. We know that in the last provincial election a number of candidates who were running for re-election provincially had spent considerably more than what they were restricted to this last time around, and one of the ideas of the bill is to keep campaign expenses to a reasonable limit.

Mr. Mahoney: Are they allowed anywhere under this bill—I do not remember seeing it—to bring items back into inventory and have them then deducted from their campaign expenses at the end.

Mr. Manios: Yes, under section 121 of the bill the registered candidate is required to include the value of goods held in inventory. If he has signs left over, for example, he has to include them in his expenses.

Mr. Mahoney: When you bring them back into inventory—if you collect your signs and put them into inventory and they stay in inventory—they can be deducted from your overall expenses, or can they be deducted?

Mr. Manios: They have to include it as part of their expense, whatever the value of those signs were at the time.

Mr. Mahoney: You do not understand my question. They spend \$5,000 on signs. At the end they collect \$4,000 worth of signs and bring them back in. They are issuing their financial statement and end up spending \$18,000. Can they deduct the \$4,000 that they have back in inventory from the \$18,000.

Mr. Manios: You can provincially.

Mr. Mahoney: You can provincially.

Mr. Manios: There are two different rules in terms of part II and part III. Part III is under the Commission on Election Finance, and in that regard the commission would have guidelines on how to proceed. Perhaps that should be extended, but the way it is worded right now, it says that the campaign expense includes the value of goods held in inventory.

Mr. Mahoney: Maybe you could look at that, Mr. Neumann, because it seems to me that would totally eliminate a problem, as identified in Caledon. I am sure if it is a problem in Caledon, it would likely be in other areas. I guess you could say you have to spend more money on signs if you are in a large urban community than you would in a rural community, but Kolb's concerns would be addressed if they were allowed to bring those signs back into inventory and deduct them from the gross expenditures to arrive at a net, with the way we do it provincially. Maybe you could look at that.

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Madam Chairman: Any other questions on section 129? If not, we will move on to section 131, the appointment of the auditor.

Mr. Manios: Section 131 requires candidates who exceed the threshold of \$20,000 in terms of expenses for funds to appoint an auditor licensed under the Public Accountancy Act. The auditor is required under this section to make a report on the financial statements of the registered candidate.

Madam Chairman: There have been comments about the appropriate threshold being \$10,000 as opposed to \$20,000.

Mr. Cousens: A comment on that from Mr. Neumann would be enlightening and helpful.

Madam Chairman: Yes.

Mr. Cousens: Is there going to be any movement?

Mr. Neumann: I think the minister indicated when he was before the committee that he was willing to be guided by the committee on this one. The \$20,000 is set. It is not something he feels strongly about. If the committee discusses it and wants to set it at \$10,000, if it feels that is more appropriate, then I do not think we are going to have any great concern about it. He has not come back to say, "Yes, I think \$10,000 is fine." It is something he has indicated he is willing to be guided by the committee on.

Mr. Mahoney: I think it is a question of the old concept of justice not only being done but being seen to be done, because if there is a tax credit issued, you require an auditor in any event, so it is really only the unaudited situations. I guess if we are going to say that we are putting a proper system in place, it would make more sense to lower the threshold, although I think that having to submit an unaudited statement, being subject to public scrutiny, being subject to the newspaper reporters going through it very carefully, etc., is likely protection enough in the situation.

Mr. Neumann: And criminal code penalties if you file a false statement.

Mr. Mahoney: Right. You are not going to mess around with that unless you are a nut case. However, having said that, I think \$20,000 is a substantial threshold and maybe the large urban compromise at \$15,000 is

something that makes sense. I think it should be lowered from \$20,000 to at least \$15,000 and maybe even \$10,000.

Mr. Neumann: There is one amendment we are preparing that relates to the appointment of auditors—does it come under that?—that came out in the meeting that was referred to earlier between the staff and Mr. Smither from Municipal World. Just to cover off the possibility that a candidate might appoint himself, his election officials, chief returning officer, as his own auditor, we are preparing an amendment to prohibit that, to make it clear that where an auditor is appointed, it is an independent auditor.

Madam Chairman: We move now to part III. I am going to suggest that we go as far into this as we can, bringing us to 10 minutes to 12, at which point we can move to the House for the votes on private members' bills if we wish. I know Mr. Velshi is particularly concerned because his resolution is up. We can move to page 14 because the first part is an explanation.

Mr. Manios: Part III deals with the tax credit system. It is similar to part II except that it provides for the Commission on Election Finances to have an overseeing role and it provides for a tax credit rebate system for municipal campaign contributions.

Do you want me to go through the various sections?

Mr. McCague: I may have missed the section, but this question has arisen: If somebody enters a campaign, gets into the fund-raising business and then for some reason backs out, what then happens to the donations?

Mr. Manios: First, his campaign period will end on the day he withdraws. Then he is required to disclose and report on his campaign expenses and contributions. If he has a surplus, that surplus is going to be held in trust by the municipal clerk.

Mr. McCague: And cannot be returned to the donors?

Mr. Manios: No. It cannot be returned to the donors because the donors will be eligible to receive a tax credit once the commission certifies those statements.

Mr. McCague: Thank you.

Mr. Mahoney: On the issue of the associated corporations, the definition of "associated," is that ownership? For example, we all know there are many lawyers, developers and business people who contribute to municipal campaigns. If a lawyer practising law in a law firm owns shares in a development company and also owns shares in an automobile dealership, are you allowed to seek contributions from each of those sources?

Mr. Manios: I think in the provincial Election Act, you have the section dealing with what is known as associated corporations. Essentially, you have one corporation and it has a number of inactive corporations controlled by the same individual for tax purposes.

Mr. Mahoney: Numbered companies.

Mr. Manios: Numbered companies. Under the provincial Election Finances Act, those corporations are considered to be one corporation. Therefore, in making a contribution, you can only make a \$750 contribution.

To address your issue in terms of a solicitor-owner who owns shares in corporation X or corporation Y, corporation X and corporation Y are independent contributors. They are legal entities. Therefore, they are entitled to make contributions.

Mr. Mahoney: Even if he is a majority shareholder?

Mr. Manios: Yes, because it is a legal entity, but a partnership cannot make a contribution. A partnership has to identify the sources of contributors.

Mr. Cousens: I have a bit of a problem with someone who does do advertising independent of the member's or potential candidate's expenses and plans, and that suddenly becomes part of his expenses. We have freedom from that one in the Ontario Election Finances Act. I know in one election campaign, I had some people buy a whole page for me. I could not have afforded it in those days when I was running for a school board. Is there no way of protecting candidates from that kind of expense that is going to be out of his pocket?

Mr. Manios: The candidate under the legislation is required, if he so chooses, to issue a certificate to the individuals he has authorized to incur expenses on his or her behalf. If someone attempts to influence that candidate's campaign by buying advertising and the candidate can show proof that he has not authorized that expenditure, then that other person or that group of individuals are in contravention of the legislation, not the candidate.

Mr. Cousens: I would say that is a problem then. To me, you can have it under our provincial legislation, where you have people who help subsidize. They want to do something. They are interested in an issue and they are going to support a candidate because they are right-to-life and they are therefore going to buy that space. You might have the same kind of thing for a local candidate where the right-to-life group is saying, "We want a full-page ad because so-and-so is in support of our agenda."

Madam Chairman: I think we have come to the end of our time for this morning. We can reconvene after orders of the day.

Interjection: Routine proceedings.

Madam Chairman: Routine proceedings, sorry; I should get these terms right—this afternoon. Those who want to vote on private members' business should be able to manage.

Mr. Daigeler: Are we reconvening this afternoon?

Madam Chairman: Yes, this afternoon. See you then.

The committee recessed at 11:50 a.m.

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STANDING COMMITTEE ON GENERAL GOVERNMENT
MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT
THURSDAY, MAY 26, 1988
Afternoon Sitting



STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

VICE-CHAIRMAN: Mahoney, Steven W. (Mississauga West L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Bryden, Marion (Beaches-Woodbine NDP)

Charlton, Brian A. (Hamilton Mountain NDP)

Daigeler, Hans (Nepean L)

Marland, Margaret (Mississauga South PC)

Matrundola, Gino (Willowdale L)

McLean, Allan K. (Simcoe East PC)

Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Substitution:

Keyes, Kenneth A. (Kingston and The Islands L) for Mr. Matrundola

Clerk: Deller, Deborah

Clerk pro tem: Mellor, Lynn

Staff:

Smith, Cynthia M., Chief, Legislative Research Service

Witnesses:

From the Ministry of Municipal Affairs:

Neumann, David E., Parliamentary Assistant to the Minister of Municipal Affairs (Brantford L)

Manios, George, Policy Adviser, Organization Policy Section, Local Government Organization Branch

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday, May 26, 1988

The committee resumed at 3:29 p.m. in room 228.

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT
(continued)

Consideration of Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

Madam Chairman: Let's get started. We are at the bottom of page 14, subsection 133(2), the forfeiture of office.

Mr. Neumann: If I could assist you on that, the suggested amendment from the Association of Municipal Clerks and Treasurers of Ontario is something I reviewed with the minister and he is giving it some consideration.

Mr. Keyes: I have a question as to whether or not it would be able to be specific. I offer my apologies also for not knowing the whole context in which I am looking at this, but if this had to do with vacating an office, it might involve a court case, might it not, which would leave it impossible to give specific times?

Mr. Neumann: Perhaps Mr. Manios could clarify what the section was intended to do.

Mr. Manios: The section attempts to deal with situations in which the candidate has failed to comply with the disclosure and reporting requirements or has exceeded the expenses and that candidate was elected. The clerk is required to notify him or her that, by operation of law, he or she has forfeited his or her seat on council.

Mr. Keyes: So it may simply be a lack of filing financial statements and documents, etc.?

Mr. Manios: Yes.

Mr. Keyes: Therefore, there could be a potential specific time?

Mr. Manios: Yes.

Madam Chairman: OK. We will now move on to section 138, the campaign period.

Mr. Manios: Section 138 in part III defines "campaign period" in the same manner as the identical section in part II. It simply says the campaign period begins on January 1 of an election year and ends three months after polling day.

Mr. Neumann: We discussed that this morning.

Mr. Daigeler: Did we come to some indication as to whether the minister would accept an extension?

Mr. Neumann: I indicated that is something he is still reviewing. I gave the rationale for why it is the way it is in the bill this morning.

Mr. Mahoney: What is our period provincially?

Mr. Neumann: You cannot make a comparison totally to the provincial situation, because provincially there are riding associations which are there at all times and can raise money at any time and then turn it over to the candidate when the election is called. The election is a very specific time period. It is from the date the election is called until, I believe, three months after the election that you can continue raising money.

What a municipal candidate does not have is a riding association raising money. This is why we set January 1 of an election year as the starting point where they could go in and register as a candidate and start raising funds if they wanted to.

Madam Chairman: Any other questions on 138? We will move on them to section 143.

Mr. Manios: Section 143 of the bill requires candidates to register with the commission during the campaign period and up to and including nomination day. It sets out the procedure for registering with the commission. It also authorizes the commission to prescribe the registration form.

Madam Chairman: The suggestion from AMCTO is that there be a requirement that the candidate provide proof of qualification. Mr. Neumann, is there any comment from the ministry on that?

Mr. Neumann: I was not aware of this particular recommendation.

Mr. Manios: What AMCTO would like there is the proposition that at the time of registration a candidate file a statutory disclosure form and that—it qualifies its recommendation—the onus lie with the candidate to make sure he is a bona fide candidate and meets all the conditions when he files his nomination. That is something that relates to the disclosure clauses that we discussed this morning.

Ms. Bryden: I just wondered about this subsection 143(3). We are on 143, are we not?

Madam Chairman: Yes.

Ms. Bryden: It says, "No person...shall solicit or accept contributions...unless the person is a registered candidate." What happens for people who have solicited funds for this current election, since registration is not possible until this act is passed? Are they allowed to solicit right up until the minute this act is passed, proclaimed and in force?

Mr. Manios: The bill provides for a transitionary period whereby as soon as the bill becomes law, candidates who have raised moneys after January 1 are required to register within 60 days. That registration will be effective to January 1. Therefore, their campaign fund-raising and expenses will be within the purview of the legislation.

Ms. Bryden: They have to report whatever they have raised after that date.

Mr. Manios: Yes.

Ms. Bryden: There will be no reporting of anything raised prior to January 1.

Mr. Manios: Prior to January 1, no. The registration is silent.

Ms. Bryden: As you know, some people in this previous election have raised very large sums prior to January 1, which is one of the difficulties when you are trying to write legislation so close to the election.

Mr. Neumann: We realize there will be a transitionary period, but at least those candidates will be covered by the expense limits so that if they have raised large sums of money and it takes them over, they will still have to remain within the expense limits. They cannot spend more than that.

Ms. Bryden: So if they have a surplus, they pocket it. Is that right?

Mr. Manios: If they have a surplus from a previous year, it is their own funds because the money was raised for them. If a municipality adopts part III, that is, a tax credit system, and he or she ends up with a surplus after the November elections, that surplus goes to a trust fund. It does not stay with the candidate. It has to be turned over to the municipal clerk and the clerk holds it in a trust fund.

Ms. Bryden: And what is it used for then?

Mr. Manios: It is used by the candidate for his next election. He cannot use it for any other purpose.

Ms. Bryden: I guess that is about all you can do when you do not have political parties at the local level. At the provincial and federal level, it would go into the parties' funds.

Mr. Manios: Yes, and the parties would be responsible for the deficit.

Madam Chairman: Thank you. We will move on now to subsection 152(5).

Mr. Manios: Subsection 152(5) deals with the requirement that the name of the sponsor be included in all political advertising conducted by the candidate.

Ms. Bryden: Is it permissible for a corporation to sponsor political advertising on behalf of a candidate?

Madam Chairman: That question was asked this morning by Mr. Cousens about a committee or citizens or corporations or whatever.

Mr. Manios: I believe that is identical to what is found in the provincial legislation.

Mr. Daigeler: Do you have any reaction to that, Mr. Neumann?

Mr. Neumann: That is one of the points where we simply ran out of time this morning when we were dealing with the minister. It is not something that was contemplated in the bill and we really do not see that it is necessary. I know that even provincially the election commission withdrew that requirement to have it.

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Mr. Daigeler: No, I do not think so. You mean for indicating who sponsored the advertisements?

Mr. Neumann: Yes. There was a letter sent out in July 1987 to ease up on that requirement with respect to signs and various other things that were used during the campaign.

Mr. Daigeler: Really?

Mr. Neumann: With respect, I think one has to recognize that the municipal level is different and what they are proposing here may not be easily applicable to thousands of municipal candidates across Ontario.

Ms. Bryden: On the other hand, there is no party identification on the poster.

Mr. Neumann: That is right, so you would have the candidate saying he sponsors his own ad and the name of the candidate would be in the ad. You are not being sponsored by a riding association as such or an organization.

Mr. Owen: Is it possible to address another subsection of this section?

Madam Chairman: Sure.

Mr. Owen: On subsection 1 of the same section, 152, my concern about that is, if, for example, Eaton's wanted to support two candidates or a trade union wanted to support two candidates on the slate, they could say to themselves, "We won't tell them we are going to do this, but we will go ahead and take out full-page ads for these two people, pay for it and say how great they are."

I think the meaning of this is that all that expensive advertising could be there, and as long as you carefully avoid letting the candidate know, he has this substantial advertising and it would not come within what he has to account for and there would be nothing to prevent it.

Mr. Manios: Subsection 152(1) is identical to what exists in subsection 23(1) of the Election Finances Act, in that any political advertising has to occur with the knowledge and consent of the registered candidate. If an outside entity attempts to influence the election without having the consent of the candidate, that entity would be in contravention of the legislation and there is a penalty for contravening it.

Mr. Owen: In other words, Eaton's or a union could not do that.

Mr. Manios: It could not do it without the consent.

Mr. Owen: Therefore, in 152(1), the wording is superfluous then, where at the very end it says, "This amount shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done."

In other words, it will always happen. It is always caught.

Mr. Manios: As I mentioned earlier, this parallels what exists in the provincial legislation, and of course the commissioner will have a role to play in the administration of this provision. Therefore, if an entity, without the consent of a candidate, influences that election, that entity could be prosecuted by the commission for violating the legislation.

Mr. Owen: Then I think the wording at the end of subsection 1 should read: "This amount shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate."

OK. I was reading it differently. In the light of the other paragraph, it does make sense and it does dovetail. Thank you.

Madam Chairman: OK. We have dealt with subsections 152(1). I am sorry, Ms. Bryden.

Ms. Bryden: This advertising would all be subject, of course, to the limits on individual contributions.

Mr. Manios: Yes.

Ms. Bryden: And to the overall when it is totalled.

Mr. Neumann: Yes, that is right.

Ms. Bryden: There is that safeguard as well. They probably cannot afford full-page ads.

Mr. Neumann: No, not of the kind we heard about today.

Madam Chairman: We dealt with section 163 and subsection 163(3) this morning, so we move on to subsections 166(2) and 166(3), limitations on campaign expenses, members of council and the ward system.

Mr. Manios: Section 166 deals with the limits on campaign expenses. It sets out the formula which the clerk is required to follow in determining those expenses. Briefly, for a head of council, it is \$5,500 plus 50 cents per elector in the municipality. For all other positions, to be elected in the municipality, it is \$3,500 plus 50 cents per elector entitled to vote for that office.

Madam Chairman: So the clarification that was required by the clerk of Mississauga is in fact there?

Mr. Manios: It is precisely in subsection 166(5), on page 44 of the bill. It reads in part:

"After determining the number of electors under subsection (4), the clerk shall calculate, for each office, the maximum amount of total campaign expenses...." So it is for each office, specifically.

Madam Chairman: Any further comment on that section? We move on then to subsection 170(1), surplus funds.

Mr. Manios: Subsection 170(1) deals with the surplus. Surplus funds are to be turned over to the clerk and cannot be used in whole or in part until the next regular election by the registered candidate.

Madam Chairman: The Association of Municipalities of Ontario had a problem with the terminology.

Mr. Manios: The concern here is really a typographical error. It should have said "next regular election" instead of "next general election." That is inconsistency in the terminology.

Mr. Neumann: We understand that is going to be corrected as an editing error by legislative counsel in printing the bill.

Madam Chairman: That solves that one. Section 173, the tax credit. That is on page 17 and one continuation on page 18.

Mr. Manios: Section 173 permits contributors to municipal campaigns to receive a tax credit or rebate on a portion of their contribution. Subsection 173(2) sets out the formula in which the rebate is calculated. Subsection 173(3) authorizes the clerk to either apply it to reduce any tax arrears or other debts or offset current taxes at the request of the contributor. In cases where the contributor has not requested that his current taxes be offset, the clerk is required to pay the contributor an equal amount to the amount of the tax credit, that is, strictly to say, give him a rebate for his contribution.

The remaining sections merely authorize the clerk to recover the funds from other jurisdictions that are involved in the tax credit system or have decided to opt into the tax credit system.

Madam Chairman: Do any members of the committee wish to ask questions or comment? If not, we will move on to section 174, access to documents. That is subsections 174(1) and (2) on our report.

Mr. Manios: Section 174 deals with access to documents. Any documents filed with the commission and the municipal clerk are open to inspection and any individual can inspect them during normal office hours and, on payment of a fee, can get copies of those documents.

Madam Chairman: The only recommendation we had here was that there be a charge of \$1 per page. Any comment?

Mr. Manios: That is what the commission charges, \$1 per page. The municipal clerks will charge different rates depending on the policy of the municipality.

Madam Chairman: It is their own decision. Any further discussion on that section? If not, we will move to 176, powers and duties of the commission.

Mr. Manios: Section 176 provides for the powers and duties of the commission to be extended to the administration of part III.

Madam Chairman: Are there any questions? We will move on to section 186, 16(1).

Mr. Neumann: Have you dealt with all of the recommendations and suggestions from the various groups along the way?

Madam Chairman: Yes, we have been following right along.

Mr. Manios: Section 186 deals with the consent of the commission relating to prosecution.

Mr. Mahoney: You are wearing us out, David.

Mr. Manios: I think section 16(1) of the act deals with the transitional provision whereby, within 60 days of the coming into force, a person must file with the clerk a registration notice, and that registration notice will be deemed to have been filed on January 1, 1988.

Madam Chairman: Mr. Neumann, do you want to comment on that? Then we will go to members of the committee.

Mr. Neumann: About the recommendation that it not be implemented?

Madam Chairman: Or any clarification from the ministry.

Mr. Neumann: On the retroactivity issue? That is something I think is still an open question. We do not have a position at the moment. The bill makes it retroactive to January 1. This was raised by members of the committee, I think the first day, and it is something the minister is still giving some consideration to in terms of asking staff to look to see if there is an alternative transition approach that might be considered, given the time in the calendar at the present time.

With respect to the issue of not having the bill take effect for the 1988 municipal election, the minister feels strongly that it should go forward for this year. Notification of the bill was circulated to every municipality back in December and they are all aware it is coming.

Madam Chairman: We move on to the final section, which is miscellaneous. If there are any other questions or comments, I will not ask Mr. Manios to deal with each of these, but rather—

Ms. Bryden: I think that third comment, that the ministry should quickly prepare a summary of the duties and requirements under parts II and III as soon as possible, should be observed. It is certainly a good suggestion in such a new mine field.

Madam Chairman: I think everybody agrees. As soon as we get through the bill and get it all done, then the rules will be clear and made clear.

Any other questions or comments? Then we have completed our task for today's session. We meet again next Thursday morning and we will review at that time the rest of the documents in a similar order to what we have already done with the ones received and dealt with in today's document, first thing. Then we will move to clause-by-clause consideration for the remainder and complete the bill at that time. See you next Thursday.

The committee adjourned at 3:53 p.m.

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Publication

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STANDING COMMITTEE ON GENERAL GOVERNMENT

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT

THURSDAY, JUNE 2, 1988

Morning Sitting



STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

VICE-CHAIRMAN: Mahoney, Steven W. (Mississauga West L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Bryden, Marion (Beaches-Woodbine NDP)

Charlton, Brian A. (Hamilton Mountain NDP)

Daigeler, Hans (Nepean L)

Marland, Margaret (Mississauga South PC)

Matrundola, Gino (Willowdale L)

McLean, Allan K. (Simcoe East PC)

Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Substitution:

Cousens, W. Donald (Markham PC) for Mrs. Marland

Clerk: Deller, Deborah

Staff:

Smith, Cynthia M., Chief, Legislative Research Service

Mifsud, Lucinda, Legislative Counsel

Witnesses:

From the Ministry of Municipal Affairs:

Neumann, David E., Parliamentary Assistant to the Minister of Municipal
Affairs (Brantford L)

Manios, George, Policy Adviser, Organization Policy Section, Local Government
Organization Branch

Chipman, John G., General Counsel, Municipal Affairs

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday, June 2, 1988

The committee met at 10:19 a.m. in room 228.

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT, 1988
(continued)

Consideration of Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

Madam Chairman: We will start the meeting now. The first item of business is the memorandum from Cynthia Smith, the chief legislative researcher, her latest memo to the committee.

Ms. Bryden: On a point of order, Madam Chairman: Before we start any business, I would like to protest that we have only received the government amendments this morning, which has given us no time to caucus on them or to examine them in relation to the act or to what has been put in. I think all committee members should be given at least an hour to go over those themselves with their caucuses.

I will say that the Conservatives submitted their proposed amendments two days ago, I think it was, in the mail, which was very good and is the way it is supposed to be done. I know there is some problem, that the ministry did not want to bring its recommendations in until it saw all the submissions, but I think it should have brought in some of them so we could have done some of this preliminary work before the meeting today.

The second thing is: Have the supplementary exhibits which were brought in last week or have come in since—no. They cannot be made an exhibit except at a meeting of the committee. Is that right?

Madam Chairman: We did say that we would distribute the correspondence as quickly as possible, and it was distributed yesterday.

Ms. Bryden: You mean exhibits which have come in since.

Madam Chairman: Yes.

Ms. Bryden: But once again, they are not included in the summary of submissions or—

Madam Chairman: Ms. Smith, would you like to respond to that?

Ms. Smith: Yes. If you will read the memo from me in front of you, you will find that all letters and briefs submitted up to and including May 31 have been integrated into the summary. The ones which I received yesterday, on June 1, have been described on the second page of this memo, the main issues. If we just go through the memo quickly, then you will understand.

Ms. Bryden: Just one moment, please. Does it cover both these supplements from groups which were sent in to us?

Ms. Smith: Yes. In the case of the June 1 ones received yesterday

afternoon, the issues with which they deal are summarized on page 2 of the covering memo of the summary you have in front of you. In the case of anything up to and including May 31, it has been integrated into this summary.

If I might just describe that, all issues that were addressed last week--

Ms. Bryden: Sorry, we have not finished with my point of order.

My main point is that we should have had time, and should have time, to study the government amendments before the committee starts to deal with them clause by clause. Therefore, I would like to move that after we conclude the work here of Cynthia Smith, we adjourn for an hour to go over them unless it has already reached 12 o'clock and we will be adjourning for lunch.

In the meantime, I would like two extra copies of these to send to our two researchers who may be able to go over them while we are dealing with the other things.

Mr. Cousens: Because I am very sympathetic to the issue which has been raised by the member for Beaches-Woodbine (Ms. Bryden), I would just like to ask the chairman how long we have to deal with the amendments and the motions that are going to be before this committee. Do we have more than today?

Madam Chairman: Today is it.

Mr. Cousens: Then we have a problem, because the only thing I can say is that I would support the intention behind Ms. Bryden's amendment. The only worry I have is that we now have a very legitimate concern, which I am sure all of us recognize. We have 30 amendments from the PC caucus. I think there are as many from the government, and I do not know how many Marion has.

We are going to run out of time. We said a lot of things last week and the week before. I am not going to repeat them but I just do not know how we can physically do it. The point is valid.

Mr. Neumann: If you will recall, last week, while we did not go clause by clause, we went over every issue. I indicated, where there were suggestions made, that the government was prepared to accept a number of amendments. The amendments distributed this morning are the precise wording of those changes.

There should be no surprises other than five or six where I said, "The minister is taking that under advisement." I even said, "He's likely to be receptive or likely not to." I can point out which ones as we go through. But I do not think there are any real surprises. There are no surprise amendments as such. They are in some cases responses to requests. For the Association of Municipalities of Ontario, for example, the minister has agreed that section 5 of the bill be deleted, which was to continue allowing registration at the polls.

So I take the point you have mentioned seriously, but I think we can manage it.

Madam Chairman: I think the request for extra copies to be submitted to the research people immediately is very valid and appropriate.

Mr. Cousens: Just on one quick point, Madam Chairman: If we do not complete it today, and assuming Ms. Bryden's motion does not pass, then I

think the onus will fall upon the chairman and the government to provide the extra time, to find the extra time to get this done properly. I think it would be a very serious injustice to the election process if we were to force, by shortage of time being allocated to this and by the extra amount of work that has to be done by all of us—I think we have worked well, but there are impossibilities we might have now to reach the deadline.

Madam Chairman: We have been very thorough in our preliminary discussions on this bill, I think more so than is usual, in fact, by going over the section-by-section recommendations from all organizations.

Any further discussion on the motion?

Ms. Bryden: Just one question.

Madam Chairman: Yes.

Ms. Bryden: Can we not sit next Thursday? Is that not part of our committee's—

Madam Chairman: We can sit on Thursday, but it is preferred—certainly this was the day that we set aside, as a committee. We agreed that this would be the day that we would deal with clause-by-clause on this bill.

Ms. Bryden: But if we do not complete clause-by-clause, can we sit?

Madam Chairman: We are going to have to move through and see where we get to. That is obvious.

Ms. Bryden: But we are authorized to sit next Thursday and we have nothing else on our agenda for next Thursday. Is that correct?

Madam Chairman: That is correct.

Ms. Bryden: OK. I will withdraw my motion, on the understanding that I get the copies and that we may have the lunch hour to go over some of things with our researchers.

Madam Chairman: OK, the motion is withdrawn. We move then to the report from Ms. Smith.

Ms. Smith: Do you want me to finish?

Madam Chairman: Yes.

Ms. Smith: To assist the people in their lunch-hour perusal, I have added—I will just explain how this is constructed. Where an issue has been previously discussed but another organization, up to and including May 31, has submitted an opinion on the issue somewhat similar to last week's, there is a broken line, such as on page 2 of the report. That just shows you at a glance where the add-ins are.

If the issue has not been previously raised by any other group, it is indicated—and there are very, very few of these—by a broken line and two little asterisks. I will just find a page with that on it: such as on page 21 of this memo. There are not very many of those.

Mr. Neumann: Page 1 has one.

Ms. Smith: Page 1, yes, but page 21 as well has three. This is if the issue has not been raised before. There are not very many.

This summary does not include submissions sent to the minister, which were obviously not sent to the committee. In many cases, these submissions to the minister are duplicates of the material received by the committee. There were, however, it should be noted, a large number of letters from cottage owners or cottager associations requesting that an advance poll be held on or about Thanksgiving weekend to accommodate them.

This summary also does not include the 11 submissions received yesterday afternoon. However, I did have time to review these submissions and have identified the main themes that they address. The concerns expressed in these submissions were similar to those which have been previously identified.

There was concern with the retroactivity sections of the bill and concerns about accessibility for the disabled of all polling places in 1991. There was a concern about the inability of voters to register at the polls on election day, particularly from smaller municipalities. The proposed tax credit system engenders controversy, as it has before, as do the sections on recounts, sections 9 and 10. The smaller municipalities are particularly concerned with these rules, as they often experience extremely close votes—those are the recount rules—and worry about the expense of recounts.

Section 7, on who may vote by proxy, has caused considerable anxiety for several municipalities. We see that as an area of potential abuse. One submission requests that there be a procedure in the bill to discipline candidates involved in vandalism, namely; defacing each others' signs, but that was the only one that was extremely different.

I hope this summary will be of assistance. It is last week's with additions.

1030

Madam Chairman: I think that the coding is very useful. I suggest that we move through those with the lines and double dots because those are the ones with new information. We then move, if the committee is agreeable, to page 1 of the report, the first section: General. I suggest we deal with this as we did in the past with comments from the ministry and comments from the committee and then move on to the next one. OK? Everybody in agreement?

Mr. Black: In the hope of expediting the process, I wonder if that is really necessary or if we might just give members a chance to peruse this and let them direct questions to the representatives of the ministry if they have a concern rather than commenting.

Madam Chairman: OK. I think we should stay on the same topic by topic, though. We are going to have to be all on the same paragraphs.

Mr. Black: It may not be necessary to have comments on every section.

Madam Chairman: Yes, only if necessary. Absolutely. We first have the comment of the township of Papineau, expressing general dissatisfaction with the bill—too complicated and too expensive. Discussion? None.

Section 35, Nomination day: This is from the township of the Archipelago. "Nomination day could be advanced to the Monday preceding the

Canadian Thanksgiving Day weekend. This would allow for seasonal residents to vote in the advance poll on the Saturday of the long weekend." Discussion?

Mr. Cousens: I am president of a cottagers' association. Our own people are asking for this kind of thing, but I do not see how we can begin to do that with the nomination process. I do not think they understand the difficulty of the municipal electoral process. I am sympathetic to the desire. It would be so convenient and nice, but I cannot see us moving it forward. We are going to have to move election day.

Madam Chairman: Having the second day will help to some extent.

Ms. Bryden: Yes, I feel the same way as Mr. Cousens. We certainly do not want to cut off access to voting, but if they can use the advance polls, it may solve the problems to some extent. I think it does not fit in with the present date that we have for the municipal elections to make that change.

Mr. Neumann: You would be having an advance poll before the candidates are nominated.

Madam Chairman: That would be a problem.

Mr. Mahoney: No. They are saying you would move nomination day to before that weekend. Your candidates would all be nominated prior to Thanksgiving Day weekend by one day. That is what they are saying. But in reality, Mr. Cousens, I think the proxy vote would help if one member of the family could go up to the cottage and cast the ballots.

Madam Chairman: OK. Any further discussion on that one? We move then to page 12. The township of Zorra on section 84: "Feels it is inappropriate and unfair to place a municipal clerk as returning officer in role of recount officer, recommends neutral third party." Discussion?

Seeing none, I move on to page 20, which is the corporation of the city of York, subsection 122(4): "Under the new subsection 122(4) of the act the solicitation or acceptance of such funds is prohibited as of January 1, 1988, by reason of the retroactive effect of subsection 17(2) of the proposed amending act, Bill 106." Discussion?

Mr. Neumann: Perhaps I could clarify that. The minister has agreed to an amendment which will make the bill active on the day of proclamation.

Madam Chairman: We move then to page 21, the Association of Large School Boards in Ontario recommendation.

This is a request for "one technical change in Bill 106 to subsection 124(6) dealing with anonymous contributions. This, as drafted, would forbid the use of any anonymous contribution by a registered candidate and would require that this contribution be paid over to the municipal clerk and become part of the general funds of the municipality. This provision is not in accord with the general principle of equal treatment of school boards and municipalities. Therefore, we ask that this subsection be amended so that any anonymous contributions to registered candidates for the office of school trustee be paid over to the treasurer of the school board concerned and become part of the general funds of that school board." Discussion?

Ms. Bryden: I think they have a point all right, but if you are going to have control of election expenditures and contributions, you have to

know where they are coming from and anonymous contributions cannot be dealt with under that setup, but I agree with the recommendation that it should be extended to all offices in all elections, that anonymous contributions cannot be part of the system, and, if they do come in, the person has to know that they will go to the office of the school trustee and presumably also to the municipality. I do not know. Is this dealt with in the government handout?

Mr. Neumann: The response that I would have is that the municipalities are charged with the responsibility of running the election—you know, the cost. The clerk has to run the election, not the school boards, and therefore, numbered or not, this is probably going to be very minuscule across the province, anonymous contributions ending up in the municipal coffers. But if they do, then it will help the municipality pay part of its cost of running the election. School boards do not run the election, the municipalities do.

Madam Chairman: OK. Moving on then: I see no other speakers to the Board of Trade of Metropolitan Toronto recommendation that 31 be amended so the maximum donation in moneys, goods or services is \$750 to any one candidate by any individual, corporation or other entity in a calendar year, to a maximum of \$3,000 in total for any group of associated corporations or other entities. Discussion?

Mr. Cousens: Any comment?

Ms. Bryden: Well, I think this is opening the door to very large corporate contributions in the whole municipal and school board electoral process and I think the idea was to keep it down for both individuals and corporations to a much lower sum than \$3,000. I think it does make it unfair for groups that do not have a lot of corporate contributions, if they are faced with the possibility of \$3,000 from corporations for any one candidate.

Madam Chairman: It is contrary to the intent.

Ms. Bryden: Yes.

Mr. Neumann: The bill, as enacted, tries to recognize the diversity of municipalities across Ontario. It is a much more complicated electoral system than we are used to provincially. To implement this, one would have to monitor, you know, what contributions a corporation had given across Ontario to different candidates, and have equipment to set a maximum collective limit. It is our feeling that the \$750 per donation for a particular candidate's election is sufficient. It is a guideline that was not there before, a requirement that was not there before. To go to this suggestion would require some kind of provincial monitoring all across Ontario, when the monitoring is done, area by area.

Madam Chairman: OK, moving on then to section 126, a recommendation from the corporation of the city of York that it could be extremely difficult, if not impossible, for a candidate to comply retroactively with some of the provisions of new sections 124, 125 and 126 of the act.

Mr. Neumann: By having the act take effect at date of proclamation. That covers all these.

Madam Chairman: Out. Moving then to page 22, a recommendation from the corporation of the city of York. It would be similarly difficult for candidates to determine whether or not any of the provisions of subsection

126(6) had been breached at any meeting or meetings at which money is given in response to a general collection of money held before the candidate became aware of such provisions.

Mr. Neumann: This also deals with the other activity.

Madam Chairman: OK. On page 24, part III of the bill, from the city of York: "With respect to the provisions of the whole of the new part III of the act, the earliest date on which any bylaw passed under this part could have effect would be January 1 of the next election year, i.e. 1991. The provisions of these 49 new sections are prospective rather than retrospective."

Mr. Neumann: I am not clear that I understand what is being proposed here.

Mr. Cousens: I was just saying to the honourable parliamentary assistant that that is the most honest statement I have heard yet from this member.

Ms. Smith: This is right out of their document, but I would think from this that it might mean they do not want things to take effect until January 1, 1991. That is a thought, not a definitive thought.

Madam Chairman: OK, then moving on to page 26, the Board of Trade of Metropolitan Toronto, "The board supports limits to campaign contributions and expenses, but feels that a strict definition of 'election expenses' must be adhered to.

"Recommendation 31 be amended from a maximum donation in moneys, goods and services." This is the same thing we have just dealt with, sorry.

We have discussed that one, and we move on to page 34. This is from the Corporation of the City of York. "The concerns of council arise from the effect that this retroactivity has upon the council in this election year of 1988.

"The council of the city of York respectfully requests the honourable members of the standing committee on general government to give consideration to the deletion of subsection 2 of section 17 of Bill 106." This is already dealt with, I think.

Mr. Cousens: Is it really? I was not sure what the intent was of subsection 17(2). Is that dealt with by virtue of the fact that you are not having it brought in till proclamation?

Interjection: Yes.

Madam Chairman: Then we are on to page 36, the township of Archipelago.

Mr. Mahoney: Archipelago. I get to vote there.

Madam Chairman: You get to vote there, all right, then we will go with your pronunciation. "Some concern regarding provisions regarding the number of school board members to be elected using Bill 106. This should be clarified regarding the definition of 'electoral group.' Under section 206a of Bill 76, 'electoral group' is defined as 'a category of persons that reside within the area of jurisdiction of the board.' Reassurance is needed to be

sure that all eligible taxpayers, whether permanent residents or seasonal residents, are included within this definition."

I think they have already answered it by using the word "residents" themselves.

Mr. Neumann: It does not deal with this bill.

Madam Chairman: OK. Any further discussion? Those are all of the line and double-dot sections of that report. Thank you, Ms. Smith. That was very nicely put together.

Mr. Mahoney: Madam Chairman, may I introduce something? I think this would be the appropriate time. I have a letter with four comments from Councillor Larry Taylor of Mississauga, which was sent to my office. Actually, I just received this yesterday, although it is dated May 18. I would like to submit this to the committee.

Madam Chairman: All right. Have you any comments to make on it?

Mr. Mahoney: The only comment is that I think that sections 3 and 4, which he refers to in his letter on page 2, as it is being handed out, are going to be dealt with in the government amendments.

Section 1 is the proxy amendment, and other members of council have expressed concern, to me as well, that they are afraid, particularly, of the family situation where there could be one dominant member of a family who might take all the proxies and go vote a certain way, notwithstanding the feelings of the individual members, particularly the young people. There might be attempts to covertly influence a vote of a young person, in a cottage situation for example, if a domineering parent gathered up five or six proxy votes and went up to the cottage and voted a certain way. However in a democracy, regardless of who is domineering in our lives, we have a responsibility to ensure that our vote is cast the way we want it cast.

Madam Chairman: That is a decision you make, whether you sign a proxy or not.

Mr. Mahoney: I can see what they are saying. I guess there is a potential problem, but I do not know that we should be amending a bill to deal with domineering individual members of a family.

The second item is one that causes me some concern, because it has also been expressed in a previous letter by Mayor Emil Kolb from Caledon, who is a member of Peel regional council, which I served on as well. Emil's point is a little bit different from Councillor Taylor's point, but it comes to the same bottom line. What they are saying is the amount of 50 cents per eligible voter is not enough. I wonder if we should look at 50 cents per capita in the electoral district, whether it is a ward or a mayoralty.

I recognize that would substantially increase the amount of money that would be eligible to be spent, but Emil Kolb's point, the mayor of Caledon, is that Caledon is spread out over—I forget the exact figure—250 square miles, I think it was, and therefore it is very expensive to run a campaign in such a large rural community. Councillor Taylor's point is that in the high urban communities, the costs of getting to the electorate are substantially higher than 50 cents a head per elector simply because of the cost of advertising, the cost of printing, etc.

My experience running municipal campaigns in the city of Mississauga would indicate that you are going to be running a very barebones campaign in the \$12,000 to \$15,000 range in that community, and if you have a serious fight going on, it would not be unusual to spend in excess of \$20,000 on a city councillor's election. That is Larry Taylor's point. I tend to have some sympathy for that. Those are my comments on it. I would just like this submitted and put on the record. I may be looking to propose an amendment to change the word "elector" to "per capita" at some point and put that before the committee for consideration.

Ms. Bryden: I would like to ask the indulgence of the committee to give me and the committee a 10-minute recess while I take this material down to our researchers and see if they have any amendments prepared already for the NDP.

Interjection.

Ms. Bryden: No. I have to explain it to them, so I would like a 10-minute recess.

Madam Chairman: That is the request. Is the committee—

Mr. Neumann: Could I please comment on the last point before you leave? First, I think the minister was pleased to receive some letters saying that the campaign limit is having an effect and perhaps is going to be encouraging people to spend less than they have been spending, because up until the Caledon letter, the general comment was that the campaign limit was so high as to be meaningless in much of the province.

I think it is cutting both ways. One must remember that whatever limit is set, if it is going to force people to reduce the spending they have been engaged in, it is going to affect all of the candidates in that area the same way. In effect, in the last provincial election, quite a number of candidates in some areas of the province had to spend less than they had been used to spending in previous elections. That is the whole purpose of this legislation, that you do not have to spend a lot of money to get elected and everyone is playing by the same rules. Incumbents always have a natural advantage, provided they have been doing the job.

Madam Chairman: Is there concurrence of the committee that we recess for 10 minutes? We come back at precisely 11 o'clock.

The committee recessed at 10:49 a.m.

1104

Madam Chairman: OK. We will move to the bill itself, page 1 of Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

On section 1:

Mr. Cousens: Are there any amendments from the New Democratic Party?

Ms. Bryden: No. There were so many things we would have liked to have seen changed—

Madam Chairman: Can you use the mike, Marion?

Ms. Bryden: We have decided not to submit any amendments unless something comes up in the next hour or two. We felt the bill is not perfect but there was so little time given for either consulting with municipalities and school boards or with our caucus generally, at those places as well as here at Queen's Park. We consider the bill important to get through for this election and to be a sort of trial run, and we would hope that if there are difficulties which arise during this election, they can be amended next year. There are so many uncertainties in new legislation like this that we have decided not to submit a group of amendments.

Mr. Black: That is a commendable attitude.

Section 1 agreed to.

On section 2:

Mr. Black: Madam Chairman, I have a housekeeping amendment on subsection 25(6). That is one of the government amendments. Have those been distributed to all members of the committee?

Madam Chairman: Mr. Black moves that subsection 25(6) of the act, as set out in section 2 of the bill, be amended by striking out "section 122 or section 143" in the first and second lines and inserting in lieu thereof "section 121 or section 138."

Ms. Bryden: I would like an explanation of what each one means, as we have not had time to study these.

Madam Chairman: Sure.

Mr. Neumann: This is the one I mentioned last week. It is simply to correct the numbering sequence. It is a technical amendment.

Madam Chairman: OK. Any further discussion on the amendment? All those in favour of the amendment?

Motion agreed to.

Madam Chairman: Any further amendments to section 2?

Mr. Cousens moves that subsection 25(6) of the act, as set out in section 2 of the bill, be struck out and the following substituted therefor:

"Every registered candidate for any office, as described in section 122 or section 143, is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election to that office."

Discussion? All those in favour of that amendment?

Motion negatived.

Madam Chairman: Any further amendments to section 2? All those in favour of section 2, as amended?

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

On section 5:

Madam Chairman: Mr. Black moves that section 5 of the bill be struck out.

Mr. Black: I know I have Mr. Cousens's support on that.

Mr. Cousens: It would really make us feel good if we got one of our motions through.

Mr. Black: You have it.

Madam Chairman: Mr. Black, you moved the amendment. Ms. Bryden, discussion on the amendment.

Ms. Bryden: Section 56 was to be repealed but will not now be repealed?

Mr. Neumann: If I could provide an explanation, this is one of the requests the minister has agreed to from, I believe, the Association of Municipalities of Ontario and the municipal clerks. There was a desire to continue to allow the voter to be sworn in at the poll, and this was to be eliminated in 1991. The minister has agreed.

Mr. Mahoney: Did you say, "sworn at, at the poll"?

Mr. Neumann: No, "Sworn in at the poll." By deleting this section, it continues the present practice not only for 1988 but beyond.

Madam Chairman: OK. Actually, then, what we are going to do is vote against section 5. All those in favour of the motion? It is gone.

Motion agreed to.

Section 5 withdrawn.

On section 6:

Madam Chairman: Mr. Cousens moves that section 6 of the bill be amended by adding thereto the following subsection:

"(1a) Section 66 of the said act is amended by adding thereto the following subsection:

"(1a) Notwithstanding subsection (1), the clerk of a municipality may hold only one advance poll if, in the opinion of the clerk, a second advance poll is unnecessary."

1110

Ms. Bryden: I can understand that clerks are very burdened and may find this a nuisance, particularly in a small area where it perhaps has not been used a lot. I think we should retain the section in the act making it mandatory to have two advance polls and perhaps monitor how much they are used. Later on, we may have to say that smaller municipalities may dispense with them, but I would rather retain the section in the act about the mandatory two advance polls. I think that is what it says.

Madam Chairman: Yes, it does. Further discussion? Shall the amendment carry? The amendment is lost.

Mr. McLean: Madam Chairman, I did not hear you call for a vote on those opposed to it. I did not see anybody's hand go up. All I saw were two hands go up in favour of it.

Madam Chairman: Sorry. All those opposed? Lost.

Mr. Black: Very tricky, Al. I tell you; we've got to watch you. I think you must get up early.

Madam Chairman: Sorry.

Motion negatived.

Madam Chairman: Shall section 6 carry? All those in favour of section 6? All those opposed?

Section 6 agreed to.

On section 7:

Madam Chairman: Mr. Cousens moves that subsection 67(1) of the act, as set out in section 7 of the bill, be struck out and the following substituted therefor:

"(1) Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 may vote by proxy in the polling subdivision if that person,

"(a) is employed in a business that involves long-distance travel by railway, air, water or motor vehicle;

"(b) is away on business at the employer's direction;

"(c) is ill or physically incapacitated; or

"(d) is a full-time student registered at a recognized educational institution."

Mr. Cousens: To comment on that, in its presentation, the Association of Municipalities of Ontario had a number of thoughts. This certainly coincides with the thinking they presented to us having to do with the wide-open proxy voting. We have talked about it before; I do not need to explain it.

I would like to have a recorded vote on this.

Madam Chairman: OK. A recorded vote has been requested.

Ms. Bryden: While I can sympathize with the Conservatives for bringing in an amendment to revert in some sense to the previous proxy voting clauses in other election acts, which used to spell out various kinds of reasons for getting a proxy, I do think it is so difficult to define exactly the nature of the disenfranchisement that results because of other kinds of business or other kinds of activities on that day, or other reasons for being away from one's residence or not being able to get to the poll, I think we

should err on the side of having a simple statutory declaration by the person that he or she seeks a proxy because he does not expect to be able to cast his vote in the polling subdivision, either at the advance poll or the regular poll.

I would oppose the amendment on the grounds that we leave it as open as possible but hope that, again, we will monitor and see whether it is widely used or not.

Mr. Mahoney: I think the government position on this, the bill, will hopefully increase accessibility, increase the turnout a little bit. The issue of its being one-for-one in a vote, unless it is a family member, I think does put some constraints and controls on it that, frankly, municipally we can live with.

I am opposed to the amendment, and frankly I find the amendment to be counter to the spirit of the bill, which would increase accessibility and increase voter turnout.

The committee divided on Mr. Cousens's amendment, which was negatived on the following vote:

Ayes

Cousens, McLean.

Nays

Black, Bryden, Daigeler, Mahoney, Matrundola, Ray, M. C.

Ayes 2; nays 6.

Section 7, as amended, agreed to.

Mr. Black: On a point of order, Madam Chairman: Although I enjoy hearing the mellow tones of Mr. Cousens's voice, I wonder if we might dispense with the need to read every amendment out, since we have already been provided with the sheets. Would it be agreeable that we just identify the section and the subsection being dealt with?

Mr. McLean: The only way we can get it on the record is if we read it.

Madam Chairman: The clerk informs me that in fact the amendment should be read into the record.

Section 8 agreed to.

On section 9:

Madam Chairman: Mr. Cousens moves that section 9 of the bill be struck out and the following substituted therefor:

"9. Section 83 of the said act, as amended by the Statutes of Ontario 1982, chapter 37, section 14, is repealed."

All those in favour of the amendment? All those opposed?

Motion negatived.

Section 9 agreed to.

On section 10:

Mr. Daigeler: I have an amendment to section 10.

Madam Chairman: OK. Would you read your amendment into the record.

Mr. Daigeler: Basically it is a technical amendment.

I move that subsections 84(1), (5), (6) and (7) of the act, as set out in section 10 of the bill, be struck out and the following substituted therefor:

"(1) The clerk of a municipality is the recount officer for elections within the municipality or any part of it.

"(5) The municipal clerks of municipalities that hold elections for school trustees under the Education Act are recount officers for the election of the school trustees."

Madam Chairman: I am sorry. You are reading the wrong amendment. You are reading the Progressive Conservative sheet, Mr. Daigeler.

Mr. Daigeler: I am sorry.

Madam Chairman: Mr. Cousens, I am sure, would like to read his own amendment.

Mr. Daigeler: I am sorry for the mistake.

Madam Chairman: Mr. Daigeler, the Conservative amendment is on section 84, so I think Mr. Cousens would like to read his and then you can read yours on section 85. OK?

Mr. Cousens: Thank you, Madam Chairman, but he was doing so well.

Madam Chairman: Mr. Cousens moves that subsections 84(1), (5), (6) and (7) of the act, as set in section 10 of the bill, be struck out and the following substituted therefor:

"(1) The clerk of a municipality is the recount officer for elections within the municipality or any part of it.

"(5) The municipal clerks of municipalities that hold elections for school trustees under the Education Act are recount officers for the election of the school trustees.

"(6) The clerk may appoint a person who is not a candidate and who is over 18 years of age as recount officer in his or her place."

Mr. Cousens: Again, these were amendments that were suggested in presentations that I listened carefully to from the Association of Municipal Clerks and Treasurers of Ontario. I think there are real merits to this. I could discuss it further but I will not.

Ms. Bryden: I would like to congratulate the Conservatives for bringing in what is really not only a simplification but also a clarification of who does recounts, really. I think the present sections are unduly cumbersome and bring in things that are probably irrelevant.

My understanding is that this section says the clerk is the recount officer for all municipal and trustee elections, period—except he is given the power to appoint someone to act on his behalf who is over 18 years of age. I do not think he has to live within the municipality either, but there are two qualifications he has to have, and that is really all you need.

Mr. Cousens: Recorded vote.

Madam Chairman: A recorded vote has been requested.

The committee divided on Mr. Cousens' amendment, which was negatived on the following vote:

Ayes

Bryden, Cousens, McLean.

Nays

Black, Daigeler, Mahoney, Matrundola, Ray.

Ayes 3; nays 5.

Mr. Cousens: Where was Mr. Daigeler when I needed him?

Madam Chairman: Mr. Daigeler, you have an amendment to section 10.

Mr. Daigeler: Subsection 85(4). I do not know whether Mr. Cousens wants to take 85(3) first.

Madam Chairman: There is a Conservative amendment to 85(3). We are back to Mr. Cousens.

Mr. Cousens: He is learning fast.

Madam Chairman: So am I.

Mr. Cousens moves that clause 85(3)(c) of the act, as set out in section 10 the bill; be struck out.

1120

Ms. Bryden: I think it is a good idea to rule out district returning officers and poll clerks from participating in a recount, but would this also rule out official scrutineers, who sometimes participate but are really there as observers? Would this also rule them out?

Mr. Cousens: Absolutely not.

Ms. Bryden: If that is clear, and I think it probably is because it says people who have an official capacity at the count, I would favour this. I think the DRO and the poll clerk do have a conflict of interest if they participate in a recount. The recount may be looking for mistakes that they made.

Mr. Neumann: May I make a point of clarification on this? As drafted, clause 3 reads, "No person shall be appointed under this section who...(c) has participated in the actual counting of the ballots." That eliminates the potential conflict of interest. Mr. Cousens's amendment deletes that, so it allows the appointing of people who participated in the counting of the ballots.

Interjection: That is good enough.

Madam Chairman: I think that clarification has been received.

All those in favour of the amendment?

Ms. Bryden: I am not clear yet.

Mr. Neumann: Look back to the bill. On page 3 of the bill: "(3) No person shall be appointed under this section who...(c) has participated in the actual counting of the ballots for a polling subdivision in the election." That is what is being deleted by this amendment.

Mr. Cousens: I am going back to the Association of Municipal Clerks and Treasurers of Ontario recommendations, when it was suggesting on the legislative research summary report, "That the recount officer or the person appointed in his/her stead not be eliminated from conducting a recount due merely to having been involved in the counting of ballots within a polling subdivision or subdivisions," and it goes on to another point.

What you are really doing is calling into question the trust of a person who has been there, and I do not think, just by virtue of his being there, that is a fair statement of his capability of being involved the second time.

Madam Chairman: Would somebody like to respond?

Mr. Neumann: The clause is that he is involved in and participating in the actual counting of the ballots. It is our feeling that if a person has been involved in the counting of the ballots in the first instance, he should not be involved in the recount.

Madam Chairman: OK. Is everybody clear on that one?

All those in favour of the amendment? All those opposed to the amendment?

Motion negatived.

Madam Chairman: Mr. Daigeler moves that subsection 85(4) of the act, as set out in section 10 of the bill, be amended by striking out "subsection 3" in the first line and inserting in lieu thereof "clause 3(c)."

Any discussion of the amendment?

Mr. Cousens: What was he saying on that?

Mr. Daigeler: Inserting clause 3(c).

Mr. Cousens: We went over that last week.

Madam Chairman: All those in favour of the amendment? All those opposed?

Motion agreed to.

Madam Chairman: Mr. Daigeler moves that the act be amended by inserting "or 79(3)" after "79(2)"

- (a) in the fourth line of subsection 86(2);
- (b) in the eighth line of subsection 86a(1);
- (c) in the fourth line of subsection 86a(3);
- (d) in the third line of subsection 86b(2); and
- (e) in the third line of subsection 87(2).

Mr. Daigeler: Again, I understand these are some technical adjustments that need to be made.

Madam Chairman: Any discussion on that? All those in favour of the amendment?

Motion agreed to.

Mr. Daigeler: I have an amendment to section 86a.

Madam Chairman: Before we move to 86, we still have one more on 85.

Mr. Cousens moves that section 85 of the act, as set out in section 10 of the bill, be amended by adding thereto the following subsection:

"(10) The expenses under subsection 10 shall be paid out only upon presentation of a certificate signed by the clerk of the municipality verifying the amount payable."

Madam Chairman: Discussion? Mr. Neumann, do you want to clarify something?

Mr. Neumann: We feel that if you view the bill in the context of the existing act, the clerk does have the authority to require certification of account payable. Is that not correct, Mr. Manios?

Mr. Manios: Yes.

Mr. Neumann: Therefore, the amendment is not necessary.

Ms. Bryden: I feel that it should be spelled out, that when you are paying people who are recruited from the community for a very short-term job-- I am not suggesting they are any less honest than other people, but it should be spelled out that the clerk verifies the person did participate and accepted the post.

He may not be doing the actual recruiting of the people; other people may submit names to him and he does not really know whether they actually served or dropped out and were replaced by somebody else. I think it is a very desirable safeguard not to authorize payment of "reasonable expenses" for any personnel involved in the recount without a certificate. I will support the amendment.

Mr. Neumann: Subsection 8(1) of the present Municipal Elections Act reads: "Except where otherwise specifically provided by this or any other special or general act, the cost of an election shall be borne by the municipality in which it is held and all costs shall be paid on certification of the clerk."

Ms. Bryden: A recount is not the cost of a municipal election.

Interjection: Yes, it is.

Ms. Bryden: Is it? We are just making it so now.

Mr. Neumann: We feel it is already covered in the existing legislation.

Mr. Cousens: I think when you can close a loophole and make sure there are not going to be any disputes when there is a potential for that in certain areas of the bill, why not do that when you are doing it? Maybe the honourable parliamentary assistant does not want to give the Progressive Conservatives the credit for having closed that loop, and then you will come back two or three years from now, whenever it happens, and say, "Oh, well, we've come to our minds." Let's do it ahead of time and do a little bit of planning.

That is all we are trying to do. I think it is out of respect for the fact that it should not be all over the bill. If you have things in some kind of logical sequence, it makes it easier for those people. They are not lawyers. In fact, I am not a lawyer. How many lawyers are in this room? We have a few who are paid for but most of us are people who have come through the ranks and are not necessarily skilled in the law and are not able to interpret every little dot and tittle as maybe we should be able to.

I think we should make it as clear and plain and sensible as we can and that is all that this amendment is trying to do.

Mr. Black: I would like to get a reaction from the parliamentary assistant to Mr. Cousen's statement, if indeed it is going to provide a needed clarification.

Mr. Neumann: Can you give us a minute? I would like to consult with the legal adviser.

The legal advice I am getting is that while we feel it is redundant, the amendment does not create any complications and may act to clarify.

Madam Chairman: Therefore, it is comfortable in your perspective. OK. After that clarification, all those in —

Mr. Neumann: Just a moment. According to Mr. Manios, the amendment should read, "the expenses under subsection 9," rather than 10.

Mr. Cousens: We will work together on that one, then. I make that amendment to the amendment.

Madam Chairman: The amendment to the amendment, which is changing subsection 10 to 9. All those in favour? Carried.

Mr. Mahoney: Can we have a recorded vote on the amendment?

Madam Chairman: You ask for it, you get it. Recorded vote requested on the amendment to the amendment.

Mr. Mahoney: No, on the amendment.

Madam Chairman: Sure. On the amendment.

The committee divided on Mr. Cousens motion, which was agreed to on the following vote:

Ayes

Black, Bryden, Cousens, Daigeler, Mahoney, Matrundola, McLean, Ray, M. C.

Ayes 8.

1130

Madam Chairman: OK. I do not need to ask for those opposed. Let us move on in a co-operative spirit to subsection 86a(1) in section 10 of the bill.

Mr. Daigeler moves that subsection 86a(1) of the act, as set out in section 10 of the bill, be amended by inserting after "office" in the sixth line "or less than 10 votes, whichever is greater."

Mr. Daigeler: I understand that this corrects the situation where there is only one polling subdivision.

Madam Chairman: Right. This was brought up previously.

Any discussion on that amendment?

All those in favour of the amendment?

All those opposed to the amendment? Carried.

Mr. Cousens moves that subsection 86(2) of the act, as set out in section 10 of the bill, be struck out and the following substituted therefor:

"(2) The time appointed for a recount under subsection 1 shall be no earlier than 10 days and no later than 20 days after the declaration of the results of the election under subsection 79(2)."

Mr. Cousens: I had a rationale for it and I just have to put it together here.

Ms. Bryden: To me, it sounds like a useful amendment because people take a little while after an election to look at the results and get their groups together to discuss the need for a recount. It does not specify actually whether we are talking about weekdays, Monday to Friday, or what. So I think an amendment of "not earlier than 10 days but no later than 20 days" is a very reasonable one. I would support it.

Mr. Neumann: The purpose of the bill being worded the way it is drafted is to ensure that where there is a tie, there is a quick resolution of the tie and a declaration of a candidate elected and then the normal recount. There can still be the normal request for a recount if the narrowness of the

vote is such that there would be a normal recount. But the provision for seven days is so that you would get at least a candidate declared elected.

Mr. Cousens: The point that really underlies the importance of this amendment is that in the case of a tie vote, a request for a recount is not required but it would hold that the same timing provision should apply. That is really all it is saying.

Mr. McLean: To me, if you look at what Rusty Russell said, it really does not say when it shall be held. There is nothing there. It is vital, and I think you should at least accept this amendment so that you would have some time limit on it.

Ms. Bryden: Can Mr. Neumann clarify whether the days are the days of the week or business days?

Mr. Neumann: Unless it specifies otherwise, the days are natural 24-hour days, although if the last day falls on a Saturday or Sunday, the day would be the next business day of the week, the Monday.

Ms. Bryden: Even in the event of a tie, I still feel that often polling boxes get lost and have to be relocated or get delayed in transit. Therefore, it is very difficult to decide how to break a tie without having everything in one place.

It may be that the breaking of the tie will have to wait until the recount is done if all the documents are not available and the final returns are not really in. It has happened in elections. Some polls do not report until two or three days after.

Mr. Black: I wonder if we might ask the ministry to comment on Mr. McLean's statement.

Mr. Neumann: It is our perception that Mr. McLean was commenting on a different section. Mr. Russell's comment was with respect to section 88 rather than 86.

Madam Chairman: Does that clarify it, Mr. Black?

Mr. Black: It clarifies it for me. I just wonder if it clarifies it for anyone else.

Mr. McLean: It suggests you do the recounts. Does this section not have something to do with recounts?

Mr. Neumann: This specifically deals with the case of a tie.

Mr. McLean: A tie? Specifically a tie? But it is still tied in to the other.

Mr. Neumann: The general provision for recount is covered in the other.

Mr. McLean: If we are going to have to have a time limit in, regardless of whether it is a tie or not, we should also have a time limit in for whether it is a tie or not.

Mr. Neumann: In the bill as presently drafted, the time limit is

seven days. The amendment proposes to change it from 10 to 20 days, a minimum of 10 and a maximum of 20.

Mr. McLean: Yes.

Mr. Chairman: I think there is fair clarification on that.

Mr. Cousens: I was surprised that if it is such a nonissue and so meaningless, the Association of Municipal Clerks and Treasurers of Ontario would raise that as one of its considerations in its presentation.

Mr. Mahoney: They are probably tired of watching. It was a chance to be heard.

Mr. Cousens: I would bet they are too.

Madam Chairman: All those in favour of the amendment?

All those opposed to the amendment?

Motion negatived.

Madam Chairman: Mr. Daigeler moves that subsection 86b(1) of the act, as set out in section 10 of the bill, be struck out and the following substituted therefor:

"(1) Following an election for the members of the council of a municipality, regional municipality or metropolitan municipality or of a school board or of a local board, where a recount of the votes for the office or for the affirmative or negative on any bylaw or question is considered to be in the public interest, the council, school board or local board, as the case may be, may pass a resolution requiring the recount officer to hold a recount."

Mr. Daigeler: I think the change here is the inclusion of the reference to "metropolitan municipality," and a little bit further down, the inclusion of "bylaw or question."

Mr. Neumann: Can I just comment briefly on this government amendment? Basically, all it does is add in "metropolitan municipality," which was left out inadvertently. Second, it adds in the provision for a recount of a vote on a question, so that if a municipality chooses to hold a referendum and there is a narrow vote, there can be a recount on a question.

Madam Chairman: All those in favour of the amendment?

All those opposed?

Motion agreed to.

Mr. Mahoney: I am just noticing, in the Progressive Conservative amendments, it says in Mr. Cousens's document that it is section 86a. Is that a typo?

Mr. Cousens: Where is that?

Madam Chairman: After section 87, which we have not got to yet, there is—

Mr. Mahoney: Your next amendment is subsection 87(2). Then the next one after that, you have 86a.

Mr. Cousens: I wonder if I just have them in the wrong order.

Mr. Mahoney: I think it is the wrong order; I think it is just out of order.

Mr. Neumann: Perhaps Mr. Cousens would withdraw that particular amendment, since we have already dealt with it by the formula of 10 votes or less.

Mr. Cousens: I have not seen that.

Mr. Neumann: You voted for it, I think.

Mr. Cousens: Is that the one we just did?

Madam Chairman: Yes.

Mr. Cousens: Yes, I can withdraw that amendment.

Madam Chairman: OK, it is withdrawn. We are now dealing with Mr. Cousens's amendment to subsection 87(2), I believe.

Mr. Cousens moves that subsection 87(2) of the act, as set out in section 10 of the bill, be amended by striking out "thirty" in the second line and inserting in lieu thereof "fourteen."

Mr. Cousens: The only point we are trying to make there is that by providing 30 days for an application for a recount, it really is an excessive period of time and it seems to be unnecessary. We should bring it back to something that is current. We are presently at 14 days.

Ms. Bryden: I am not sure whether, in the interests of people deciding whether they should go in for the time and costs of a recount, they should not have 30 days to consult with their supporters and groups. I think I would rather retain the 30 days to give candidates who may not have very large resources time to look the situation over and see whether they want to pay for it. There is sometimes some expense personally, as well as what is paid by the government. I would not support the amendment.

1140

Mr. Neumann: There are two reasons for the bill being drafted the way it is. First, a school board and a council have up to 30 days to request a recount. This gives an individual candidate the same time period, as Ms. Bryden says, to consult, gather evidence and present the case to a judge. Second, there were some comments from judges that in a couple of cases there was insufficient time.

Mr. Cousens: I guess the problem is that, once the election takes place and the council is elected, when there is some concern, the sooner those things can be cleared up the better. I think that is also part of it.

I think we have moved in the right direction in many of the changes that are being considered, but we had a situation several years ago in Markham and it just dragged on and on, taking it to the courts and so on. It was upsetting

to all the people involved. They just did not know where they come out. There was a recount recently in Scarborough. It is too bad Mr. Faubert is not here. He would understand the agonies that went on in that one. So any way in which we can close the gap on it, I think is a responsible effort.

The other problem we have, by lengthening it out, is the expectations and hopes and different other things that people have. Who knows? I feel strongly about this one.

Mr. McLean: Maybe there is some way we could compromise. The ministry and the government want 30 days, and presently it is 14 days. Perhaps we could start off at 20 or 21 days. When you are involved in waiting for a recount, if you are one of the ones who is involved, it is frustrating. With 30 days you have a lame duck council. Do you swear the person in who got the most votes or do you leave it? I think 30 days is too long and perhaps there could be a compromise here to 21 days or something. That is three weeks. That is quite a while.

Mr. Mahoney: I find Mr. Cousens' comments contrary to the previous amendment, which was going to stretch out the time allowed in the case of a tie. I do not know if there is consistency there, with all due respect.

I think the difference in a recount is that there is time needed to do whatever judiciary works need to be done to make sure the thing is done properly. By hurrying the situation, I think we certainly leave it open to errors. That would be my only concern.

The other thing is that, I believe, if I am not mistaken, this brings this into line with our situation provincially, does it not, the 30 days?

Mr. Neumann: We will check on that.

Mr. Black: I think I heard the parliamentary assistant suggest that the municipalities and the school boards were allowed 30 days under the current legislation and would continue to have 30 days. It makes sense to me that there be some consistency. If the school board is allowed 30 days, the candidate should be allowed the same. Whether that can be shortened or should be is another question perhaps.

Mr. Neumann: I can say that Mr. McLean's idea of compromise at 21 days was specifically put to the minister, and he felt there should be the consistency between the individual candidate and the school board or the municipality.

The committee divided on Mr. Cousens' motion, which was negated on the following vote:

Ayes

Cousens, McLean.

Nays

Black, Bryden, Daigeler, Mahoney, Matrundola, Owen.

Ayes 2; nays 6.

Madam Chairman: Mr. Mahoney moves that subsection 87(9) of the act,

as set out in section 10 of the bill, be struck out and the following substituted therefor:

"(9) The costs with respect to a recount conducted under this section are in the discretion of the judge ordering the recount who may order by whom, to whom and in what manner the costs shall be paid."

Ms. Bryden: I would like clarification as to what the present situation is regarding recounts and who determines the costs.

Madam Chairman: Ms. Bryden asked for clarification. Mr. Neumann, would you?

Mr. Neumann: I am sorry, I did not hear. I was focusing on the typographical error.

Ms. Bryden: What is the situation for recounts under the present act? Does the judge decide which costs will be borne by the applicants?

Mr. Neumann: Yes. In writing the bill, by referencing that to a \$100 deposit, the bill as drafted could have been interpreted that \$100 was the maximum cost that could be awarded. This amendment clarifies that.

Ms. Bryden: But does the present act allow the judge—

Mr. Neumann: This is in keeping with the present act and the principle of the judge having the independence to award costs.

Ms. Bryden: I hate to give judges this kind of power, because they generally do not consider that a lot of the people appearing in recounts are people of very modest means and they sort of go by what is awarded in court costs when people go in for civil litigation. I have seen some very harsh awarding of costs by judges who are not always sympathetic to the varying needs of the people before them, so I would like to see some sort of ceiling put on the amount of costs that can be levied against an applicant or some appeal from what the judge awards. In effect, I hope most recount costs will be covered by the person, that is, the board or the municipality involved in this part of the extension of the electoral process.

In certain circumstances where there is uncertainty, people are entitled to recounts, and I really think there should not be additional costs. There may be additional personal costs for lawyers, but I do not think the other party should be expected to pick those up. In effect, I think I would vote against this.

Mr. Owen: In our area I know we have had judges who seem to have some understanding and experience of the problems of local elections. I have always found through the years that they have been quite fair in handling the matter of costs in this type of situation. From what I have heard from other areas in the province near us, the same experience has been there; maybe Toronto is a little different. I do not know. But I think only they can see what evidence is before them; only the judge has seen the nuances of each situation. If they are competent to be sitting on the bench, generally speaking, they are quite competent to assess the other factor about costs. Therefore, I would support this, simply because there is a proven track record in our area that it works.

Mr. Neumann: In the case of the automatic recount in the municipality case, the provision in this amendment would apply to recount by application from an electorate and would perhaps forestall frivolous applications.

Mr. McLean: I have some problems with these amendments and I will tell you why. I have never before seen a government bill which has been drafted bringing in about 30 government amendments. Here we are now, dealing with government amendments amending their own legislation which are all new. Is anybody aware of the debate that is going to take place after the new bill is redrafted? Perhaps the parliamentary assistant could help me and tell me why we would have 30 amendments to a government bill. We used to have two or three, but I have never before seen 30 amendments.

Mr. Mahoney: We are not as stubborn as you are.

Mr. McLean: The bill has got to be bad, if it is your own amendments.

Madam Chairman: Mr. Neumann can respond, but I think it was clearly stated throughout the process that it was open for amendments.

Mr. Neumann: I think the minister set the tone, appearing before the committee at the start of its deliberations, in indicating that he was open for suggestions and amendments. The number of amendments perhaps appears to be greater than it really is, because in some cases we have had to move amendments in two sections of the bill, where the wording has to be changed. Although the package looks thick, there are—

Mr. McLean: There are 30 of them, I counted them.

Mr. Neumann: Yes, but there are many duplications in there where the same amendment is moved to section 2 and section 3.

Mr. Mahoney: It seems that you cannot win around here. You try to have an open mind and listen to the people from the Association of Municipalities of Ontario, the Association of Municipal Clerks and Treasurers of Ontario and the municipalities. The government members, I might add, fought very hard for some of the amendments. Now we are being criticized because we are agreeing to some of the amendments that we, as a government, feel make the bill better and because we have listened to those associations.

Had we stuck to our guns and said no to all of the amendments, "We are just going to stick our heads in the sand and allow only one or two," which perhaps former governments have done in the past, I could see our being criticized now. Because we are listening to the people directly affected by this, we are being criticized because we are being too flexible. I just find it a very interesting statement and an interesting position. I think it is, frankly, just sidetracking our work here at this committee too, because our job here is to try to put out the best possible legislation we can and listen to the people, in the true tradition of being open, accessible and accountable, as this government is.

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Ms. Bryden: I share Mr. McLean's concern that this bill has been very rushed, and we have not had time to look at the government's proposed amendments until today. It is very unsatisfactory from the point of view of the

legislative process, people's having information and being able to discuss the amendments with some knowledge of what went before and what changes are being proposed.

I think this is one amendment the parliamentary assistant or the minister could have tabled with this committee a considerable time before, because I think it was a sort of an afterthought that somebody had to indicate that the judge had discretion on costs. I would like to ask the research officer, were there any specific recommendations in this area in the various submissions to us?

Mr. Neumann: I believe AMCTO recommended it. I also believe I indicated last Thursday that we were supporting this kind of an amendment to clarify that section.

Ms. Smith: AMCTO clerks did question this particular one.

Ms. Bryden: Were they in favour of the judge's being given the power or against?

Ms. Smith: They said, "The association believes that the costs with respect to a recount conducted under this section are in the discretion of the judge ordering the recount, who may order by whom, to whom and in what manner the costs shall be paid."

Ms. Bryden: So they are in favour of this amendment. You say automatic recounts are all paid for by the government. Does that include paying legal fees for people who appear before it?

Mr. Chipman: What would be included?

Mr. Neumann: No, it is an automatic recount. In the automatic recount, the municipality pays for the candidate's legal fees.

Mr. Manios: The automatic recount, provided it does not go to a district court for the determination of the disputed ballots, is paid by the municipality, school board or local board that the recount involves. If it goes to the district court judge for a determination of the disputed ballots, the district court judge has the discretionary authority to allocate the costs, depending on the application.

Ms. Bryden: Does the candidate pay nothing in the automatic recount?

Mr. Manios: No. If he has a lawyer, he will pay his costs. Those are his personal costs.

Ms. Bryden: But the school board does not pay its personal costs, its costs for lawyers. The government pays that, does it not? The board or the municipality pays that, if it has to hire lawyers.

Mr. Manios: If a municipality requests a recount for a vote, it is responsible for the total cost. If it wants to have legal representation before that recount, it will be liable for the costs, the same as the candidate. If the candidate wants to have legal representation present, he is responsible for his costs at that moment, but he is not responsible for the cost of the recount.

Ms. Bryden: If the application was made by the school board of a municipality—or is it always made by a candidate?

Mr. Manios: There are two approaches. The application for an automatic recount can only be made by the defeated candidate, and that recount is automatic. If that recount is within the norms of the act, the costs are paid by the municipality. If the school board makes an application for an automatic recount, the school board is responsible for the costs.

Ms. Bryden: It does not really seem fair that the candidate who is caught in this situation by the final count should have to pay his own costs. He did not really apply for a recount. It is required by the act.

There should be some assistance for the candidate. Certainly, the school board has lots of legal money in its budget so it is able to carry the cost of hiring lawyers. But the candidate might be a very modest-income person who is stuck with his own legal costs. Should there not be some provision for his costs being paid for also by the board or the municipality?

Mr. Cousens: I have just a couple of points. I think we do want to proceed, but I have to respond in part. When Mr. McLean said he has never seen as many amendments or as many changes, go back to what happened. This bill, when it was presented in the Legislature, was not going to go to committee unless the Progressive Conservative caucus forced it to committee.

We did that because we were concerned with a number of things that were wrong with the bill. It has been proven out by virtue of the fact of the number of presentations we have received and the number of amendments that are now before this committee. Therefore, do not say that you are open and accessible. You would not be unless there were a strong, intelligent and dynamic opposition.

Mr. Mahoney: On a point of order: Are we discussing the amendments to the bill or who brought it to committee?

Madam Chairman: Mr. Black is next on my list.

Interjections.

Madam Chairman: We have been working so nicely together. It is almost noon recess. You can have an apple and a sandwich and feel really good in about two more minutes.

Mr. Black: I also wanted to comment on the comments by Mr. McLean. I think it is very obvious that they were made tongue-in-cheek. I know Mr. McLean well. He could not possibly be serious about those kinds of comments.

He knows very well that this is a government which is open and accessible, that is willing to consider amendments, no matter what their source. We have even considered some amendments from the Progressive Conservative Party.

I would suggest, if I may conclude, that he is being an obstructionist. He is deliberately trying to delay the work of this committee and I hope that after lunch he returns with—

Madam Chairman: I think the members of this committee are working very nicely together. We have an amendment in front of us from Mr. Mahoney.

All those in favour?

Mr. Cousens: Which amendment was it, please?

Madam Chairman: All those opposed to the amendment?

Mr. Cousens: I asked the number.

Mr. Mahoney: Subsection 87(9). It was read into the record.

Madam Chairman: There has been a great deal of discussion on it. I will call for the vote again.

The committee divided on Mr. Mahoney's motion, which was agreed to on the following vote:

Ayes

Black, Daigeler, Mahoney, Matrundola, Owen, M.C. Ray.

Nays

Bryden, Cousins, McLean.

Ayes 6; nays 3.

Mr. Mahoney: I have another amendment. I would like to be on when come back. It is to clause 88(1)(c) in section 10 of the bill.

Madam Chairman: I think we will reconvene at 3:30 p.m. We know where we are on our list?

Mr. Cousens: We may have a problem in the House if the Minister of Municipal Affairs (Mr. Eakins) continues on Bill 126 or something that we were debating last night. I adjourned the debate, so there had better be some confirmation from the House leaders on what we are doing. I do not think we can have a Municipal Affairs bill in the Legislature and one in committee at the same time.

I am responsible for both.

Madam Chairman: If the same ministry's legislation is being discussed in the House, we cannot discuss it in committee.

The committee recessed at 12 noon.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT

THURSDAY, JUNE 2, 1988

Afternoon Sitting



STANDING COMMITTEE ON GENERAL GOVERNMENT

CHAIRMAN: Stoner, Norah (Durham West L)

VICE-CHAIRMAN: Mahoney, Steven W. (Mississauga West L)

Black, Kenneth H. (Muskoka-Georgian Bay L)

Bryden, Marion (Beaches-Woodbine NDP)

Charlton, Brian A. (Hamilton Mountain NDP)

Daigeler, Hans (Nepean L)

Marland, Margaret (Mississauga South PC)

Matrundola, Gino (Willowdale L)

McLean, Allan K. (Simcoe East PC)

Owen, Bruce (Simcoe Centre L)

Ray, Michael C. (Windsor-Walkerville L)

Clerk: Deller, Deborah

Staff:

Smith, Cynthia M., Chief, Legislative Research Service

Mifsud, Lucinda, Legislative Counsel

Witnesses:

From the Ministry of Municipal Affairs:

Neumann, David E., Parliamentary Assistant to the Minister of Municipal
Affairs (Brantford L)

Manios, George, Policy Adviser, Organization Policy Section, Local Government
Organization Branch

Chipman, John G., General Counsel, Municipal Affairs

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday, June 2, 1988

The committee resumed at 3:42 p.m. in room 228.

MUNICIPAL ELECTIONS STATUTE LAW AMENDMENT ACT
(continued)

Consideration of Bill 106, An Act to amend the Municipal Elections Act and the Municipal Act.

Madam Chairman: Where are we?

Clerk of the Committee: Section 10. Mr. Mahoney has an amendment to section 88c of the act.

Section 10:

Madam Chairman: Mr. Mahoney moves that section 88c of the act, as set out in section 10 of the bill, be amended by adding thereto the following subsection:

"(1a) If the recount officer fails to make an application within five days of a request being made under subsection (1), the party making the request may apply directly to a judge of the district court."

Madam Chairman: We have had a fair bit of discussion on this topic. Are you ready for the vote?

Motion agreed to.

Mr. Cousens: I am just trying to think how that is going to affect my amendment and to what extent it is a disadvantage in not having the government amendments earlier than today, whether or not it changes any intent behind mine. I do not think it does.

Madam Chairman: So you want to go with your amendment then?

Mr. Cousens: I am just looking at it. I have not had a chance since this morning.

Mr. Mahoney: Can we come back to it?

Mr. Cousens: I think we may as well finish if we can. I do not think there is. Maybe we should refer it to—

Madam Chairman: Legal counsel, Mr. Cousens. Legal counsel says that it does not.

Mr. Cousens: Yes. Is there anything there? Does it change the numbering? Does it change anything? If you guys are going to support it, I do not want to have just a legal technicality that causes you to—

Mr. Black: Why do you not just read it into the record and find out?

Mr. Cousens: There may have to be some changes to it. I suggest we hold on that and come back to it.

Madam Chairman: Did you have some advice on that, legal counsel?

Ms. Mifsud: It is not the numerical thing that is a problem, but I think you have set up sort of a different structure that this would not quite make sense in.

Mr. Cousens: That is right. It is not an easy one to handle right now.

Ms. Mifsud: They are not compatible.

Madam Chairman: Do you want to withdraw it or do you want to put it forward?

Mr. Neumann: Parts of your amendment we have already included.

Mr. Cousens: Yes, that is the problem we have.

Madam Chairman: Yes, it would be.

Mr. Cousens: Can we just refer that back to the legal counsel of the ministry? I would like to discuss it with them and take a few minutes to do it, just to see what sections I have now had resolved and which ones I have not.

Madam Chairman: We will move on to Mr. Counens again with section 88g.

Mr. Cousens: This is pretty self-explanatory.

Madam Chairman: Mr. Cousens moves that section 88g of the act, as set out in section 10 of the bill, be struck out and the following substituted therefor:

"88g. The costs of a recount shall be determined by the judge."

Mr. Mahoney: I thought we covered that earlier this morning in the other amendment where a judge was given the authority to set the costs and determine where they would go and who would pay them.

Mr. Cousens: I had not had a chance to refer that back. Is that true?

Madam Chairman: Yes.

Mr. Cousens: What number was that?

Mr. Mahoney: One of the earlier amendments.

Mr. Neumann: Section 88g in the bill says, "The costs of the recount, unless otherwise ordered by a judge, shall be borne by the municipality, school board or local board...." This is on the automatic recounts.

Mr. Mahoney: But we did an amendment this morning.

Mr. Neumann: That was on the elector-initiated recount.

Mr. Cousens: I guess really what I am saying is that any recount conducted under section 88c is at the discretion of the judge ordering the recount, who may order, by whom, to whom and in what manner the costs shall be paid. I guess that is really the concern I am having. I think it is fairly self-explanatory.

Madam Chairman: All those in favour of the amendment?

All those opposed?

Motion negatived.

Madam Chairman: Mr. Cousens moves that subsections 88j(7) and 88j(8) of the act, as set out in section 10 of the bill, be struck out and the following substituted therefor:

"(7) One judge of the Divisional Court shall determine the objection pertaining to, or count again, the ballots or such of them that are the subject of appeal, or review the re-addition as the case may be."

"(8) The judge shall complete the recount, certify the results and give a copy of the certificate to the recount officer or judge of the district court."

Mr. Cousens: I think what we are really saying there is that an appeal to a decision of the recount officer— I think it is fairly self-explanatory.

Madam Chairman: OK. Any further discussion?

All those in favour of the amendment?

All those opposed?

Motion negatived.

Madam Chairman: Any further amendments to section 10? Seeing none, shall section 10, as amended, carry?

Mr. Cousens: I am sorry. I thought I had a section under section 10 that I wanted to come back to and that we had agreement from the committee.

Madam Chairman: Yes. You are correct, absolutely.

Sections 11 and 12 agreed to.

Section 13:

Madam Chairman: We move on to section 13, where I have an amendment.

Mr. Mahoney moves that section 121 of the act, as set out in section 13 of the bill, be amended by striking out the definition of "campaign period" and substituting the following therefor:

"'Campaign period' means the period commencing on,

"(a) in the case of a regular election, the first day of January of an election year, or

"(b) in the case of a new election, the day on which,

"(i) an order to hold a new election is given in any judicial proceedings,

"(ii) the council of the municipality passes a bylaw to hold a new election,

"(iii) the clerk receives from the secretary of a school board notice that a new election is required, or

"(iv) an order to hold a new election is given by the minister under the Municipal Act, and ending

"and ending,

"(c) in the case of a regular election, on the 31st day of March in the year following the election year, or

"(d) in the case of a new election, 135 days after polling day."

Madam Chairman: Any discussion on this one?

1550

Mr. Cousens: Where did you get your numbers? I would like to get some. Some new thoughts have come forward here and I am not just sure where they came from.

Mr. Neumann: This was a response by the minister to the requests we had for extending the campaign period by more than three months after the election to give people a greater opportunity to raise funds to pay off deficits. Given the fact that the three months, in a regular year at least, would include the Christmas season, it was felt that perhaps some consideration should be given to that.

The Association of Municipalities of Ontario's report recommendation was six months instead of three months. What the minister has decided upon is that if we make it March 31 following the election year, that gives not three but at least four and a half months and that would then extend the recording period to June 30.

The minister felt that if we gave a full six months, the reporting period would not be until well into the summer and on into the fall before you would know whether someone filed improperly and would then be ineligible to serve on the council. By then he has already served three quarters of a year. It was an attempt to balance off the decision to recognize that they need a little more campaign time or fund-raising time period, but on the other hand, not have the reporting time extended too far beyond that.

By giving fixed dates everyone in a regular election year will clearly understand that March 31 is the day you have to finish your fund-raising and June 30 is the day you have to have your report in, but it maintains the January 1 start for the campaign. It is felt that is important. The minister felt that he did not want to back off from that in that some people in the larger urban areas need to have that time early in the year to start organizing their campaigns and raising funds.

Mr. Mahoney: If I could just add, the AMO position as I recall was six months before the election and six months after. This goes from January 1 of the election year to four and a half months after.

It certainly is at least as much time, perhaps a little bit more, than what AMO was looking for in the large urban section and what Howard Moscoe was looking for. It is probably a little bit more, but it allows a longer lead-up, which would be less to the advantage to the incumbent than a shorter lead-up. It still allows for a good lengthy period after the election to raise money from it to cover a deficit.

Mr. Cousens: You have stated as well that except for this year, when you allow it to go into effect when it is declared or proclaimed, you are going back. So it would be at the beginning of every January. The election period begins in the election year.

Mr. Neumann: I think that was initially the recommendation of the report.

Mr. Cousens: So there has been no movement for that at all. Was there any other change that you have by your amendments?

Mr. Neumann: The other change comes later but it is the reporting time. Because we have changed the fund-raising time by so much, we would first have to change the recording time as well, the date by which you would have to file your report with the clerk.

Mr. Mahoney: Could I just correct that? Mr. Cousens, I think there has been fairly substantial movement to move the date to March 31 after the election. The argument put forward from the various people was that we need more time after the election to fund-raise for deficits.

Mr. Neumann: It would be February 14 in effect this coming year. Instead of having to call your fund-raiser by February 14, you would have until the end of March.

Mr. Cousens: I am happy with that part of it. The problem I have is I guess I am far too simplistic by virtue of the needs that people have when they are into municipal elections. We just labour them down with rules, regulations and guidelines. Now that we are going to have the full financial apparatus around an election campaign, more and more of them are going to make sure, or should be guided to having an accountant or someone to assist them to make sure they meet the deadline and do not break any rules. Some people, when they are good at politics, are not necessarily good at accounting, to live up to these guidelines.

I agree with Mr. Mahoney on the movement. It addresses in part the concerns that were raised by AMO. That takes away part of my amendment, which is on the same area. I still have some problems with it beginning in January.

Do you know what it also does? One of the reasons I supported the decision by the previous government to have three-year terms of office was so that they would not always be politicking for their election, because that is the real concern in municipal politics in the last six months. Now that it is here in the law, starting in January of the year of the election, they are going to start getting ready. They will not necessarily be dealing with the issues.

Interjection.

Mr. Cousens: I know. It is true too. But it gives them a reason to say, "We had better start politicking for the November 14 election date," as it would be this year. I know the amount of work that does not get done in councils because of that kind of building up for an election.

Mr. Mahoney: It does not happen here?

Mr. Cousens: Oh, probably it does not. No, it does not happen at Queen's Park.

I still think what you are doing is helping councils to not be as effective in the period before election by extending that time to January 1, rather than a six-month period before the election. That is the intent of the amendment I want to bring forward. I am concerned with that aspect of this amendment to the bill, that you still have not addressed that.

Madam Chairman: That completes my list.

All those in favour of the amendment?

All those opposed?

Motion agreed to.

Madam Chairman: I assume you still want to put yours forward, Mr. Cousens?

Mr. Cousens: I have to change mine by virtue of the fact that I accept the positive movement, which I think is in a better way than no way.

Mr. Mahoney: Would you repeat that?

Mr. Cousens: I am saying that by virtue of the government extending the time after polling day for submitting the results to March 31, I think that is more helpful than February 14. There is a six-week help there. I still would like to have this section amended.

Madam Chairman: Mr. Cousens moves that the definition of "campaign period" in section 121 of the act, as set out in section 13 of the bill, be amended so that the period begins commencing six months before polling day.

Mr. Neumann: If I could just point out to the mover of the motion that the effect of the start of the campaign in this bill will not affect this particular election. It does not come into effect until 1991.

Mr. Cousens: I know. I made that clear earlier, I thought, when I said I recognize this—

Mr. Neumann: It does not require a person to start that soon. It gives them that option. We know from watching things, in the major metropolitan area at least, that some people have been raising funds since the fall. I think it recognizes a reality that in some parts of the province at least people do want to start earlier than six months ahead of the campaign to raise their money and that they should be up front and declare that they are—

Madam Chairman: I would like the clerk to reread the wording of the amendment, just to make sure it is correct.

Clerk of the Committee: Mr. Cousens moves that the definition of "campaign period" in section 121 of the act, as set out in section 13 of the bill, be amended so that the period begins commencing six months before polling day.

Mr. Cousens: By virtue of all the amendments you are coming through with, are you now saying that the person even has to declare— Is there something in your amendment that says they have to declare the office for which they are running?

Madam Chairman: No.

Mr. Cousens: That was originally there because they had to declare what that office was, so that was part of the bill.

Madam Chairman: Mr. Neumann, can you respond to the question?

Mr. Neumann: I am sorry. I was chatting with Mr. Manios.

1600

Mr. Cousens: Did you deal in any way with the need or requirement for candidates to declare at the time when they began the campaign period, what office they would be running for? Before these amendments, was it not required that candidates declare what they are running for?

Mr. Neumann: There is nothing on that.

Madam Chairman: They are not required.

Mr. Cousens: So they are not required. But they are required to state that they are going to be running for an office.

Mr. Neumann: For a municipal office.

Mr. Cousens: Yes; therefore, your amendments would deal with what could be any municipal office, school board or council. They do not have to specify what particular office it is, do they? Someone was saying that they had to indicate what office they were supposed to go for, which I did not agree with at all.

Mr. Mahoney: I thought that had to do more with the issue of how many copies of the voters' list we gave out and for what area.

Mr. Cousens: That is where it was. Did we agree that they do not have to say?

Mr. Mahoney: What we agreed, I think, was that you would give them

basically what they asked for. So if they come in and say, "I am running for alderman, ward 2," you give them two copies of that. If they come in and say they are running and they want copies of all the voters' lists, did we not say that we would give them two copies of whatever they asked for?

Mr. Black: That would be an informal recommendation.

Mr. Neumann: That was not an amendment. That was the way we felt it could be handled informally. The minister did not want to amend the legislation to be specific and say that they would only be entitled to part of the voters' lists if they were running in the ward.

But he felt there was discrimination to some degree between the incumbents who automatically get all of the lists for the whole city, if it is a city, and people who are not incumbents coming in and asking for a list and being told they can only have it for a ward. If they come in and say, "I am running for alderman in ward 2," you give them those lists. If they ask for the rest, you have to give them the rest.

Madam Chairman: I think everyone is clear on what the amendment is.

All those in favour of Mr. Cousens's amendment? All those opposed?

Motion negatived.

Madam Chairman: I would like to move back, if you would, to section 88b of the act, as set out in section 10 of the bill, on which Mr. Cousens asked for some clarification from the staff. Would you like to restate your question in view of the other amendments?

Mr. Cousens: I need staff to help me. I know we want to speed through this as much as we can. With the amendments that have been made by the government and are proposed by the government, does it affect in any way the wording of my amendments on section 88c of the act, as set out in section 10 of the bill? If so, maybe I can just leave them with that because they were not here when we asked it.

Are there any changes I should make to my amendment so that it is not overlapping something or changing what has already been proposed by the government? I suggest we take a minute or two to do that.

Madam Chairman: The clerk has looked at it and maybe between those legal heads they can come up with an answer fairly quickly.

Mr. Cousens: I suggest you go on to another item.

Madam Chairman: Looks like we are going to have to.

Mr. M. C. Ray: I have an addition to section 121 of the act, as set out in section 13 of the bill.

Section 13:

Madam Chairman: Mr. M. C. Ray moves that section 121 of the act, as set out in section 13 of the bill, be amended by adding thereto the following subsection:

"(2) Where a corporation is associated with another corporation under

section 256 of the Income Tax Act (Canada) and where one or both of those associated corporations does not or do not carry on an active business as that expression is defined in paragraph 125(6)(d) of the Income Tax Act (Canada), the two associated corporations shall be considered as a single corporation for the purposes of this part."

It is an amendment proposed by the Association of Municipalities of Ontario to treat the associated companies as a single corporation.

Madam Chairman: Any discussion on the amendment?

Mr. Cousens: The only thing is when I reviewed this with legal counsel, they also suggested it include the words "and part III" as being a more complete way of approaching that because it does apply to the bill. Is there any reason why you are not including that?

Mr. Neumann: It is scheduled to be moved again when we get to part III. We have it listed farther on in our sheet.

Mr. Cousens: I just do not see it. Which one is it? OK, it is section 138 of the act, as set out in section 13 of the bill.

Madam Chairman: Is that clarified?

Mr. Neumann: So you can move that when we get to it.

Mr. Cousens: I am not going to be upset.

Madam Chairman: All those in favour of Mr. Ray's amendment?

Motion agreed to.

Madam Chairman: Mr. Black moves that subsection 122(2) of the act, as set out in section 13 of the bill, be amended by striking out "or" at the end of clause (b); by adding "or" at the end of clause (c) and by adding thereto the following clause:

"(d) an order to hold a new election is given by the minister under the Municipal Act."

Mr. Black: It is a technical change. It does not substantially change it.

Mr. Cousens: I do not see any real problem with that.

Mr. Neumann: What it does is makes it compatible with something we did earlier and adds in the fourth reason. There are four ways that you can have by-elections or new elections and this is one of them that was left out of this section.

Mr. Cousens: It has been consistent in the past that you can do that? I thought so.

Madam Chairman: All those in favour of the amendment?

Motion agreed to.

Madam Chairman: Mr. Black moves that subsection 122(7) of the act,

as set out in section 13 of the bill, be amended by striking out "within six months after polling day" in the last line.

Mr. Black: Once again, that is a technical change to be consistent with amendments we have made earlier.

Mr. Neumann: This makes this section consistent with the new campaign period we established earlier in another amendment.

Madam Chairman: Mr. Black?

Mr. Black: I am just voting in favour of the amendment.

Madam Chairman: I have not asked the question yet. Mr. Cousens wanted clarification.

All those in favour? All those opposed?

Motion agreed to.

Madam Chairman: Mr. Cousens, we have still one of yours, to section 122 of the act.

Mr. Cousens moves that section 122 of the act, as set out in section 13 of the bill, be amended by adding thereto the following subsection:

"(1a) No person is eligible to be a candidate in a municipality unless any debts owed by the candidate to the municipality, including property taxes, are paid."

Mr. Cousens: I do not know how you would do it otherwise, but it appears to me that the present bill has taken that little bit of incentive to have someone be paid up on their taxes before they put their name forward or allow their names to be put forward as official nominees. Am I not right in that?

Madam Chairman: It was never required.

Mr. Cousens: Then maybe it is time it is. I thought it was at one time. Maybe it is because I have always been so diligent myself in having my wife pay up our taxes.

Mr. Neumann: That was pre-1972, back in the old Tory days.

Mr. Cousens: When I had hair.

There is an element, though, here of responsibility on the part of elected people to set an example within the community in which they are hoping to represent others. Who knows how—

Mr. Charlton: Let's hope your cheque doesn't bounce.

Mr. Cousens: Who knows?

Why not have this? Is there not a sense then of added morality? It is a word that we know in our party. The member for Muskoka-Georgian Bay (Mr. Black) probably—

Mr. Black: It is unfortunate your federal counterparts are not familiar with that word as well.

1610

Mr. Cousens: That is a good way of looking at life. You start with some kind of position that says we have to be responsible and the perception that we are also responsible. That is why I believe that this amendment has some value. Those of you here, we will not go back and look into your background to see if you served in municipal office that you in fact owed taxes.

Mr. Black: We are sure you have already done that, actually.

Mr. Cousens: You do not have the same kind of sense of declaration of what you are doing within the municipal councils: personal assets, paid-up bills and this stuff. But this one would at least say to the people that this person is clean with the town council.

It must be terrible for staff to be dealing with a former councillor. I do not mean to point at Mr. Mahoney, but what if he in fact were on council and had not paid his municipal bills and was paying interest on them? I know he would never do that on purpose, but this would make sure that he was not a delinquent.

Mr. Mahoney: I think you have been checking up.

Madam Chairman: Speaking on the amendment.

Mr. Neumann: What about a member of the Legislature?

Mr. Mahoney: How about if we were to say that a member of the Legislature, to run, would not be allowed to have an income tax debt. It is the same principle. I think you would be very contrary: if you owe some money in income tax, that does not make you a bad person. You pay interest on it. If you owe three months' or six months' payments on your realty taxes, that would not make you a bad person or an amoral or an immoral person or an unlawful person. The laws are there to deal with it.

I am not sure if it is under the Municipal Act or where it is, but it is laid out that you cannot be an undischarged bankrupt. That kind of thing is already in place, so you cannot be some scoundrel in trouble and in debt up to your eyes and then run. You have to play by the rules. If you have been bankrupt, you must be discharged and properly dealt with. I believe there are laws dealing with criminal charges or background, that kind of thing.

I just think we are really being very punitive here. There are a lot of people who, for example, pay their taxes annually at the end of the year. That is their choice. They would rather pay the interest on the unpaid taxes to the municipality than perhaps pay the bank on the money they might borrow either through a line of credit or a personal loan to pay the taxes because, for some reason, they prefer to use the money for other purposes. In this society, that is perfectly legal and well accepted and above board.

I think it is actually nondemocratic to do it this way. It may seem trite, but I can see it as a problem that somebody does not realize his taxes are a month or two late. Maybe the wife pays the bills or the husband pays the bills and the other spouse is running and all of a sudden they win the election and somebody goes and says, "Hey, you cannot hold this office because you owe us \$122 in realty taxes." I just think you are being very punitive.

Madam Chairman: Do any other members wish to discuss this amendment?

Mr. Mahoney: Are you trying to cut me off, Madam Chairman?

Madam Chairman: Everybody has put his view. I think it is well covered.

Mr. Black: There's nothing more that can be said on that.

Mr. Cousens: Only to the extent that I think the onus always falls on the person who is running for political office to maintain the highest level of responsibility. Not to have paid his taxes while running for that office and not to have them up to date I think is poor. It is a fiscally responsible move on the part of this motion to suggest that.

Madam Chairman: All those in favour of the amendment? All those opposed?

Motion negatived.

Mr. Mahoney: I have an amendment but I see a note under the Progressive Conservative amendments to vote against sections 124 and 125. My amendment is not until section 128.

Madam Chairman: Debbie, how do we do that?

Mr. Mahoney: We just dealt with section 122, right?

Clerk of the Committee: But the vote will be on the whole section.

Madam Chairman: As amended.

Clerk of the Committee: Do you just want to move on to the next one?

Mr. Cousens: Then you can go to section 124. I just want to go on record as being opposed to it.

Mr. Black: Just a note from you, though, Don.

Mr. Cousens: Yes, so you guys know where I stand. So there is no doubt. The people in Markham and the people at Queen's Park will know that I have a common position.

Madam Chairman: OK, we move on then to your amendment, Mr. Mahoney, on section 128.

Mr. Mahoney moves that that subsection 128(3) of the act, as set out in section 13 of the bill, be struck out and the following substituted therefor:

"(3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 127(1) is considered to be a contribution under section 124."

Mr. Neumann: This is a government amendment in response to the suggestion of the election commission where they pointed out to us on day one that there was a potential loophole. What it means in effect is that a guarantor cannot guarantee in excess of the campaign contribution limits of \$750.

Madam Chairman: All those in favour of the amendment?

Motion agreed to.

Madam Chairman: We have another one on section 130. Sorry, Mr. Cousens, you have one on subsection 129(6).

Mr. Cousens moves that subsection 129(6) of the act, as set out in section 13 of the bill, be amended by adding after "wards" in the seventh line "for that office".

Mr. Cousens: This is one of the things that came out of the Association of Municipal Clerks and Treasurers of Ontario. They recommended that this section be amended by adding the words "for that office" after the words "wards" in the last line, to clarify that the maximum amount of campaign expenses that may be incurred would be based on the total number of electors for the particular office in question within a given jurisdiction. It is really just a cleaning-up motion.

Madam Chairman: All those in favour of Mr. Cousens's amendment? All those opposed to the amendment?

Motion negatived.

Mr. Mahoney: I had an amendment I talked about this morning to subsection 129(4) with regard to the ceiling. It is fairly simple. I have decided from conversations with members here that to change it to a per resident situation would be too difficult.

Madam Chairman: Mr. Mahoney moves that subsection 129(4) of the act, as set out in section 13 of the bill, be amended to substitute the words "\$0.75 per elector" for the words "\$0.05 per elector."

Mr. Black: We have had considerable discussion and we have heard representations from a number of organizations. There was a great deal of concern about the cost of elections in this province and the amounts of money being spent. I see Mr. Mahoney's proposed amendment as being a backward step. I think that amount of money is not needed by most candidates for most offices in this province.

I think all of us are interested in economizing and in making the election process fair and open and accessible to as big a percentage of the population as possible. Anything which raises the maximum for campaign expenses will prevent some candidates from having a fair opportunity to compete for that office. I would oppose this amendment.

Mr. Cousens: I think that Mr. Mahoney has found a way of recognizing the problems between the north and the south in the province. In some of the large urban municipalities where the cost of running a campaign is so much more, this bill does not take into consideration, as does the provincial act, northern boundaries north of the French River or south of the French River.

It does not separate urban from rural and I think that would become more complicated as well. I think what the member is trying to do is to come up with some kind of middle way—it could be tight; it could be very difficult in municipalities such as his and mine to run a campaign within the guidelines that are there—and just leave some opportunity.

The other thing that is behind it is it allows people who are running for public office in large areas to at least have enough to run a campaign to get their names known and to get the issues released.

There is a second concern that comes out. We have to do all we can to get people involved in municipal politics. Sometimes it is going to be through that incentive that a local candidate has to get the public out there. I would not want to see us take away from that.

I think it is a heck of a terrible thing when you have only 30 per cent or less, or thereabouts, involved by voting. Maybe this is one way of just keeping the profile up. I would say it is a responsible amendment and I would support it.

Motion negatived.

1620

Madam Chairman: Mr. Daigeler moves that subsection 130(1) of the act, as set out in section 13 of the bill, be struck out and the following substituted therefor:

"(1) Every individual, corporation or trade union that has any claim for payment in relation to a campaign expense shall submit the claim after polling day to the registered candidate who incurred the expense,

"(a) in the case of a regular election, no later than the 31st day of March in the year following the election year; or

"(b) in the case of an election held under subsection 122(2), no later than 135 days after polling day."

Mr. Daigeler: I understand that puts it in line with previous amendments.

Madam Chairman: Related to a previous motion, correct.

Mr. Cousens: What are you really doing there?

Madam Chairman: It is bringing it in line with the previous resolution.

Mr. Daigeler: With the extension from three months to 135 days.

Mr. Neumann: I would point out to Mr. Daigeler perhaps that clause 130(1)(b) should read "in the case of a new election, no later than 135 days after polling day."

Mr. Daigeler: That is what I read, is it not?

Motion agreed to.

Madam Chairman: Mr. Mahoney moves that subsection 131(1) of the act, as set out in section 13 of the bill, be amended by striking out "\$20,000" in the second line and in the third line and inserting in lieu thereof in each instance "\$10,000."

Mr. Mahoney: Speaking briefly to the amendment, this was the very strong recommendation of the ??large urban section and the chairman of that, Howard Moscoe. He was called on the CBC the large chairman of the urban section, but I think that was wrongly put. It is the large chairman of the ??large urban section. He recommended that.

The Association of Municipalities of Ontario supported that change to \$10,000. When you add up the numbers, if you leave it at \$20,000, it is virtually going to mean that it is not effective. I think reducing it is a good move.

Madam Chairman: There seems to be concurrence on this.

Mr. Cousens: I think you will notice that the government has stolen the exact wording of the Progressive Conservative amendment for this. I was trying to find any difference and there is not even a comma that is wrong.

Madam Chairman: Is it not nice how we can work with each other?

Mr. Mahoney: Somebody stole something. We know that.

Mr. Cousens: Maybe we were just listening at the same time.

Mr. Black: On a point of order, Madam Chairman: I just want to identify for the member that we indicated very clearly this morning that we were prepared to accept good wording from any source. That is part of the openness of this party and its willingness to put forward legislation that meets the needs of the people of Ontario.

I would also point out that the member for Simcoe East (Mr. McLean) is not present this afternoon.

Madam Chairman: It is unfortunate.

Motion agreed to.

Madam Chairman: Mr. Mahoney moves that section 131 of the act, as set out in section 13 of the bill, be amended by adding thereto the following subsections:

"(2a) If an auditor appointed under subsection 1 ceases to hold office, ceases to be qualified under subsection 1 or becomes ineligible under subsection 2b, the candidate shall immediately appoint another auditor licensed under the Public Accountancy Act and shall immediately notify the clerk of the full name and address of the auditor.

"(2b) No election official and no registered candidate or chief financial officer of a registered candidate shall act as the auditor for the candidate, but nothing in this subsection makes ineligible the partners with whom or the firm with which this person is associated from acting as an auditor for the registered candidate."

Motion agreed to.

Madam Chairman: Mr. Daigeler moves that subsection 132(1) of the act, as set out in section 13 of the bill, be struck out and the following substituted therefor:

"(1) Subject to subsections 2 and 3, every registered candidate shall file with the clerk who was the returning officer in the election a financial statement and auditor's report in the prescribed form which shall contain,

"(a) all income received and expenses incurred in the campaign period;

"(b) a list of contributions in the form of goods or services and the value of them received by or on behalf of the registered candidate during the campaign period;

"(c) the name, address and contribution of each individual, corporation or trade union that made a contribution, whether in the form of money, goods or services, if the contribution was more than \$100; and

"(d) a list of campaign expenses, paid and outstanding, incurred in a campaign period and a statement of disputed claims.

"(1a) The financial statement and auditor's report under subsection (1) shall be filed,

"(a) in the case of a regular election, no later than the 30th day of June in the year following the election year; or

"(b) in the case of a new election, no later than 225 days after polling day."

Mr. Neumann: Again, this amendment was made necessary by the change in the campaign period that we made in another section of the bill.

Motion agreed to.

Madam Chairman: Mr. Mahoney moves that subsection 132(2) of the act, as set out in section 13 of the bill, be struck out and the following substituted therefor:

"(2) If the contributions received by or on behalf of a registered candidate do not exceed \$10,000 or expenses incurred by or on behalf of the registered candidate do not exceed \$10,000, the registered candidate may, instead of filing the financial statement required under subsection 1, file a report in the prescribed form containing the information required in subsection 1."

Mr. Cousens: I support this. Unfortunately, it has more words to accomplish what I would have done in the amendment that we had, but it does accomplish the same objective.

Madam Chairman: It changes the wording from yours, which was the same as the original one that you had in and Mr. Mahoney had in.

Motion agreed to.

Madam Chairman: Yours is next then, Mr. Cousens. Do you wish to withdraw it? It is already covered.

Mr. Cousens: Yes, I think it is already covered, so I will.

Madam Chairman: Mr. Mahoney moves that section 138 of the act, as set out in section 13 of the bill, be amended by striking out the definition of "campaign period" and substituting the following therefor:

"'Campaign period' means the period commencing on,

"(a) in the case of a regular election, the first day of January of an election year, or

"(b) in the case of a new election, the day on which,

"(i) an order to hold a new election is given in any judicial proceedings,

"(ii) the council of the municipality passes a bylaw to hold a new election,

"(iii) the clerk receives from the secretary of a school board notice that a new election is required, or

"(iv) an order to hold a new election is given by the minister under the Municipal Act,

"and ending,

"(c) in the case of a regular election, on the 31st day of March in the year following the election year, or

"(d) in the case of a new election, 135 days after polling day."

Mr. Cousens: I just give notice that I am going to vote against it primarily because I have to, rather than take the time up of this committee by resubmitting another amendment very similar to this that was defeated a little while ago. But I am disappointed that there has been no consideration to abbreviate the time for calling an election. You are being consistent if you pass this because you did previously. That is something new for this.

Mr. Mahoney: We appreciate your vote of confidence.

Motion agreed to.

Madam Chairman: Mr. M. C. Ray moves that section 138 of the act, as set out in section 13 of the bill, be amended by adding thereto the following subsection:

"(2) Where a corporation is associated with another corporation under section 256 of the Income Tax Act (Canada) and where one or both of those associated corporations does not or do not carry on an active business as that expression is defined in paragraph 125(6)(d) of the Income Tax Act (Canada), the two associated corporations shall be considered as a single corporation for the purposes of this part."

Motion agreed to.

1630

Madam Chairman: I have another amendment from Mr. Cousens on section 138.

Mr. Cousens: I move that section 143 of the act as set out in section —

Madam Chairman: We are still on section 138.

Interjection: Section 138 was deferred.

Madam Chairman: We deferred that one? I am sorry, I did not put it aside. My apologies.

Mr. Cousens moves that section 143 of the act, as set out in section 13 of the bill, be amended by adding thereto the following subsection:

"(1a) No person is eligible to be a candidate in a municipality unless any debts owed by the candidate to the municipality, including property taxes, are paid."

Mr. Cousens: This is part of the eligibility requirement that this committee saw fit not to vote for a little while ago. The arguments have not changed.

Madam Chairman: Right.

Mr. Mahoney: You promised a restatement.

Mr. Cousens: I love to hear your voice.

Madam Chairman: I think the comments on this section are already on the record.

Motion negatived.

Madam Chairman: Mr. Matrundola moves that subsection 143(2) of the act, as set out in section 13 of the bill, be amended by striking out "or" at the end of clause (b); by adding "or" at the end of clause (c); and by adding thereto the following clause:

"(d) an order to hold a new election is given by the minister under the Municipal Act."

Motion agreed to.

Madam Chairman: Mr. Matrundola moves that subsection 143(7) of the act, as set out in section 13 of the bill, be amended by striking out "file a copy of it with the clerk within six months after the expiration of the campaign period" in the 13th and 14th lines and inserting in lieu thereof "at the same time file a copy of it with the clerk."

Motion agreed to.

Madam Chairman: Mr. Cousens moves that section 143 of the act, as set out in section 13 of the bill, be amended by adding thereto the following subsection:

"(9) The commission shall prepare and distribute to every registered candidate a summary of the duties and responsibilities of a registered candidate."

Mr. Cousens: This idea comes out of the presentation by the Association of Municipal Clerks and Treasurers of Ontario, which suggests that the onus to show proof that the candidate has met all the criteria and has qualified for any exclusions should be placed on the candidate. Therefore, by having this, it makes sure that there is no doubt about what his responsibilities and duties are. Therefore, they are stated.

I think some people have a hard time keeping pace with change, even if it is every 20 years for people running for re-election.

Mr. Mahoney: Every 42 years.

Mr. Cousens: That is a number that I heard today and I am trying to think where it was.

Mr. Mahoney: It will probably be another 42 years before there is—

Mr. Cousens: You never know. Let's put the onus on making sure that people know what those responsibilities and duties are.

Madam Chairman: Mr. Neumann, do you want to respond to that?

Mr. Neumann: No. I think I will ask Mr. Manios to explain it.

Mr. Manios: Section 176 of the act provides that the powers and duties of the commission are extended to the administration of part III of the bill. Therefore, all the powers and duties that are set out in the Election Finances Act for the commission will be extended to the administration of part III. The commission will publish and distribute guidelines and materials to assist candidates.

Mr. Neumann: In addition to that, the ministry is already in the process of drafting materials to go to all municipal clerks providing the packages, and we are sending them these amended rules.

Madam Chairman: The clerks will provide that information to the candidates.

Mr. Neumann: To candidates as they register.

Mr. Cousens: I withdraw this amendment, then.

Madam Chairman: OK. Thank you.

Mr. Cousens moves that part III of the act, as set out in section 13 of the bill, be amended by adding thereto the following section:

"143a. Notwithstanding any other provision of this act, no candidate is required to file any reports or statements under this part if the registered candidate does not intend to spend or raise more than \$1,000 during the campaign period and the registered candidate files with the commission a statutory declaration stating that such is the case."

Mr. Cousens: I think it is pretty straightforward.

Motion negatived.

Madam Chairman: We are out of order in our provision of papers. We have section 13 of the bill, section 122a and also subsection 133(2). These are slightly out of order, Mr. Cousens, but they are your resolutions.

Mr. Cousens: I will not bother with section 122a. I think you had a way of dealing with that one.

Madam Chairman: Right.

Mr. Cousens: Madam Chairman, I apologize that these papers are in incorrect sequence at that point, but I would like you to give me permission to go back to section 133.

Madam Chairman: Absolutely.

Mr. Cousens moves that subsection 133(2) of the act, as set out in section 13 of the bill, be amended by striking out "immediately" in the fourth line and inserting in lieu thereof "within five days of the default."

Mr. Cousens: The Association of Municipal Clerks and Treasurers of Ontario again had some concerns about that and recommended that the point at which the office is deemed vacant and the registered candidate is required to forfeit that office be a specific time after an identifiable point in the election process rather than simply the term "immediately."

Mr. Mahoney: I think it is a good move, particularly in line with some of the earlier adjustments we made where we put specific time periods in. I am going to support this amendment.

Mr. Neumann: If I could make one point. It is an acceptable amendment provided Mr. Cousens moves a similar amendment when we get to subsection 171(2).

Mr. Cousens: OK.

Motion agreed to.

Madam Chairman: Now we are on section 163(3).

Mr. Daigeler moves that subsection 163(3) of the act, as set out in section 13 of the bill, be struck out and the following substituted therefor:

"(3) A guarantee or a payment made by a guarantor in respect of a loan referred to in subsection 162(1) is considered to be a contribution under section 148."

This again is a continuation of the previous amendment.

Motion agreed to.

Madam Chairman: Mr. Daigeler moves that subsection 167(1) of the act, as set out in section 13 of the bill, be struck out and the following substituted therefor:

"(1) Every individual who or corporation or trade union which has any claim for payment in relation to a campaign expense shall submit the claim to the chief financial officer of the registered candidate who incurred the expense,

"(a) in the case of a regular election, no later than March 31 in the year following the election year; or

"(b) in the case of a new election, no later than 135 days after polling day."

Mr. Matrondola: This thing, does it make good sense? "Every individual who or corporation or trade union" etc.

Madam Chairman: It is bringing this into line with the previous amendments.

Mr. Daigeler: I was a little surprised as well, but that is legalese.

1640

Madam Chairman: Any further discussion?

Motion agreed to.

Madam Chairman: Mr. Daigeler moves that subsection 169(1) of the act, as set out in section 13 of the bill, be struck out and the following substituted therefor:

"(1) The chief financial officer of every registered candidate shall file with the commission,

"(a) a financial statement setting out,

"(i) all income received and expenses incurred in the campaign period,

"(ii) all campaign expenses, paid and outstanding, incurred in a campaign period and a statement of all disputed claims, and

"(iii) all information required to be recorded under section 161 that relates to the campaign period; and

"(b) the auditor's report on the financial statement.

"(1a) The financial statement and auditor's report under subsection 1 shall be filed,

"(a) in the case of a regular election, no later than the 30th day of June in the year following the election year; or

"(b) in the case of a new election, no later than 225 days after polling day."

Any discussion? All those in favour of the amendment? All those opposed?

Motion agreed to.

Madam Chairman: Mr. Matrundola moves that subsection 169(2) of the act, as set out in section 13 of the bill, be amended by striking out "within six months after polling day" in the first and second lines and inserting in lieu thereof "at the time of filing with the commission."

Discussion? All those in favour? All those opposed?

Motion agreed to.

Madam Chairman: Mr. Matrundola moves that subsection 170(1) of the act, as set out in section 13 in the bill, be amended by striking out "general" in the sixth line and inserting in lieu thereof "regular."

Any discussion on that? All those in favour?

Motion agreed to.

Mr. Neumann: On a point of order, Madam Chairman: We have a—

Madam Chairman: It is the same wording. It is exactly the same wording and it is carried.

Mr. Neumann: Of course.

Madam Chairman: You are talking about the Progressive Conservative amendment?

Interjection: That is a separate amendment.

Clerk of the Committee: Then he goes to 173.

Madam Chairman: We are at section 173. We have already carried the amendment.

Mr. Neumann: No, the amendment to subsection 133(2), which I mentioned, which changed "immediately" to "within five days of the default" needs to be moved as an amendment as well to subsection 171(2).

Madam Chairman: So moved? OK.

Motion agreed to.

Madam Chairman: Mr. Matrondola moves that subsection 173(6) of the act, as set out in section 13 of the bill, be amended by striking out "deducting that amount from any funds that the municipality is required to pay over to the school board" in the sixth and seventh lines and inserting in lieu thereof "billing the school board for that amount."

Any discussion?

Mr. Cousens: Yes. What are you doing there?

Mr. Manios: The bill as presently drafted requires the clerk to deduct the amount of the tax credit cost from the funds that the municipalities are required to pay over to the school board, assuming that the school board has opted for a tax credit system.

The bill as currently drafted creates a problem for Metropolitan Toronto area boards of education. The funding for the area boards of education are centralized in the hands of the Metro board of education. The amendment will correct that to permit school boards in the Metropolitan area to adopt part III and to enable the municipalities to recover the cost of a tax credit system.

Mr. Cousens: I guess I have a question that is a very fundamental one that was raised by the Ontario Public School Trustees' Association. A number of us in this room may have been school trustees. I was for a considerable period of time, and I am sensitive to the fact that school trustees do not receive grants or financial assistance from the Ministry of Education, their funding source, for election expenses.

Now we have a situation in which school boards are going to be responsible for paying, in part, some of the election costs, especially if there is a tax credit system.

I wonder if the government has communicated this concern which was expressed by the Ontario Public School Trustees' Association to the Minister

of Education (Mr. Ward). That is my first question. The second question is: Has the Ministry of Education any plans or given any indication that it has plans of increasing the grants to the municipalities in lieu of the additional costs they are going to have for municipal elections which they have not previously had, which otherwise would come out of the dollars for education?

I think the school boards have been very careful to keep separate—I do not think that the trustees are all that political. I think they should be more politically minded and realize that they are elected and there is a political aspect to it, but I do not think they have accepted the fact that they are moving into a new era in which school boards are going to be carrying out certain functions that have not previously been included in their charters, nor have they been funded for.

I guess it raises a third question. Are we really changing some of the fundamental guidelines under which trustees have traditionally felt they were responsible?

Mr. Neumann: First, this section of the bill is optional, so only school boards opting to implement this will be affected by it. Second, the Minister of Education is aware of the presentation by the Ontario Public School Trustees' Association. He does not have a concern about it.

We did receive a letter from the Association of Large School Boards in Ontario and they are supportive of the bill. I think that indicates that there is the same kind of diversity within school boards across Ontario as we have experienced with municipalities.

The feeling of the government is that whether you serve on a public utilities commission, a school board or a municipal council, you are an elected official serving at the local level and the rules should be basically the same when you run for office.

Mr. Cousens: Maybe the parliamentary assistant could deal with the question of the costs now for municipal elections which are going to be borne by those boards of education. Is there going to be additional granting or moneys allocated from the province to assist them with this burden?

Mr. Neumann: The only additional costs would be the costs associated with the tax credit or contribution rebate system. That would be an option which a school board has, to adopt it or not to adopt it.

If one is going to create the argument, as the trustees' association did in their presentation to us, that it is going to take away from education, which is their mandate, the same argument could be made for municipalities which raise funds from local taxpayers or receive unconditional grants or conditional grants, that some funds which could otherwise be used for roads or social services or day care are perhaps going to be used for the tax credit system, or the alternative is that the taxes will go up a bit to pay for the tax credit or contribution rebate system.

That is a decision each school board will make and they will be accountable to their electorate in making it.

Madam Chairman: Mr. Mahoney?

Mr. Cousens: OK. I will come back, but it is on that and it is all part and parcel of it.

Madam Chairman: Sorry, I have Mr. Mahoney on the list.

Mr. Cousens: If I may—

Madam Chairman: Yes, Mr. Cousens, and then I will go to Mr. Mahoney.

Mr. Cousens: I think we have a problem and I am worried about it. The parliamentary assistant would make it just seem like nickels and dimes, but I happen to know that, from the way trustees budget and spend their money with care, that it all, to them—and I think wisely so—reflects on how good a job they can do for the children within their system.

Traditionally, I think this has a lot of implications that go beyond just the bill. I think it really touches on the context in which trustees will now operate. I see it as part of the thin edge of the wedge, which is no different than with the government coming along and causing school boards to require day care centres within schools, which again is outside of the Education Act, using education dollars, education resources for another function, outside of the primary purpose which I see school trustees to have.

1650

I have a fundamental difference of opinion with what the government is suggesting, because of the serious implications it has on the way in which school boards have functioned in the past and are capable of functioning in the future.

May I add one more point? I see this as something that has quite a lot of significance to it. If the local council goes for the system of credits on election expenses, I do not think there is going to be much doubt that the local school board, if it is looking at what is going on in the community, would want to be consistent. I think it would have a hard time not being consistent, but who knows?

Madam Chairman: It is their decision.

Mr. Cousens: It is their decision. But what we are really doing, I think, is forcing something on the school boards that I see as a precedent-setting action. Since there is not going to be funding coming from the province, we are seeing school boards now starting to carry the costs of election expenses. This might well be the beginning of further costs that they are going to incur in the future, with this intention now being known and this being the beginning of it.

I speak strongly against what is happening here, and I am going to ask for a recorded vote on it.

Mr. Mahoney: I agree with Mr. Cousens that he has a fundamental difference of opinion with the government and probably with the majority of the members of this committee. Let me just point out here where the real fundamental difference is, in my view.

What you are suggesting is that the Minister of Education should increase his grants to a school board which has decided to opt into the tax credit system. I would be just shocked if any Minister of Education made such a proposal. That clearly is not the role of the Minister of Education.

Mr. Cousens: Can I, just on a point of order—

Madam Chairman: No.

Mr. Mahoney: Clearly, as well, we are not forcing anything on the school boards, and the Minister of Education is not their only source of revenue. They have a tax base from which to draw. If they decide they want to issue tax receipts to people who are running or to their contributors, that is clearly their decision.

I think it is just unthinkable. In fact, it is contrary to the entire intent of the bill, because we have had people before us who have said: "Give us the tax credit, but let the province pay for it." We have made it clear that we are prepared to offer the tax credit system to the municipalities and the school boards, etc., but not at the expense of the provincial taxpayers, who are actually electing the people who are adopting that tax credit system. Just as we pay for it provincially and the feds pay for it federally, the municipalities should pay for it municipally, and so should the school boards, if they so choose.

I do not know how you can argue both sides of that. If we start funding from the provincial coffers of any ministry the cost of a tax credit system at a municipal level or a school board level, it is basically, fundamentally, contrary to Bill 106.

Mr. Daigeler: Again, I appreciate, I think, the points that Mr. Cousens has made, and I think they are sincerely held, as they were by those who came here. But I find it very consistent if we accept the fact that we do pay an honorarium to the trustees, and I think that is in line with the cost of education. Presently, the honoraria are taken out of the funds that are going to education, and the election is part of the cost of having elected representatives at the school board. So I think a consistency rather than a departure is really happening here.

If we have elected trustees, if we pay them something rather than have volunteers, I think we should see, as part of the educational costs, the reimbursement of election expenses.

Mr. Cousens: To me, it has a lot of implications, the kind of thing that Mr. Mahoney referred to in that I want to see more money come from the province to solve the problem. We are not just always going to solve it that way. But that is really the source of funds that local school boards have. It comes from the province. By asking questions, it did not presume that I necessarily wanted the money to come from there because it could come from any source. In fact, it is the local ratepayers whom I have seen in the past, through the local councils, who have been responsible for the costs of running elections. That has been the consistency and I am merely going back to that.

When I ask if there is going to be money from the Ministry of Education, had the answer been yes, then I would have come back on another line of argument. "Now here we go, we are spending money again." So there is an element there where you did not do that one, so I would come back and -

Interjection.

Madam Chairman: No, you cannot. You are getting off topic.

Mr. Neumann: I commend the member for his honesty, as he did earlier.

Madam Chairman: Okay, fine. I think that we have dealt with this

quite fully, Mr. Cousens.

Mr. Cousens: I do not know, Madam Chairman. I think we could go on quite a bit longer.

Madam Chairman: I know you could, but I think we have dealt with it fully and I suggest that we now vote on the amendment.

The committee divided on Mr. Matrundola's amendment, which was agreed to on the following vote:

Ayes

Charlton, Daigeler, Mahoney, Matrundola, M. C. Ray.

Nays

Cousens.

Ayes 5; nays 1.

Madam Chairman: Mr. Cousens, I have a resolution from you in front of me on section 173 of the act as set out in section 13 of the bill. I have been advised by the legislative counsel that it is beyond the scope of the bill, contrary to the intent of the bill and against the principle of the bill. Therefore I rule this amendment to the section out of order.

All those in favour of section 13 as amended?

All those opposed to section 13?

Section 13, as amended, agreed to.

Section 10:

Madam Chairman: Now let us go back, before we go on to the next section. We finished section 13 as amended. Let us go back to section 10, to Mr. Cousens question on section 88c. Are the ministry people prepared to deal with this yet?

Mr. Mahoney: I think you should give it the same ruling as you gave the last one.

Madam Chairman: No, they asked for clarification.

Mr. Mahoney: —it is no good, and rip it up.

Mr. Cousens: It makes me wonder just how she comes to work. What broom did she fly on today?

Mr. Mahoney: Sexist remark, chauvinist.

Madam Chairman: I was going to say something really nice about co-operation in this committee. Now I am wondering.

Mr. Cousens: No, it is just that she obviously moves quickly.

Mr. Chipman: Madam Chairman, we have examined Mr. Cousens' proposed amendment in the context of the amendment to section 88c that was proposed by

the government and carried.

Really, his amendment appears to put a different scheme into place altogether. It becomes for yourself then a choice: Do we want to maintain the scheme involving an application to the judge which is set out in subsection 88c(1) of the bill as amended by subsection 1a, the government motion, or do we want to move to a different scheme which is set out in Mr. Cousens' amendment? They are two different things.

Madam Chairman: Mr. Cousens moves his amendment then that subsection 88c(1), (8), (9) and (10) of the act, as set out in section 10 of the bill, be struck out and the following substituted therefor:

"(1) If a candidate disputes the ability of a ballot,

"(a) the candidate shall inform the recount officer who shall hold all disputed ballots in a separate envelope; and

"(b) the candidate may require that all disputed ballots be referred to a judge of the district court if the total number of disputed ballots is greater than the difference in votes between candidates, otherwise the decision of the returning officer is final in respect to the disputed ballots.

"(8) The judge shall complete the recount, certify the results and give a copy of the certificate to the recount officer unless, within five days following the hearing, the judge receives a notice of appeal under section 88j.

"(9) the costs of the application under this section are in the discretion of the judge who may order by whom, to whom and in what manner the costs are to be paid.

All those in favour of the amendment?

All those opposed to the amendment?

Motion negatived.

Section 10, as amended, agreed to.

Sections 14 and 15 agreed to.

1700

Section 16:

Madam Chairman: Mr. Daigeler moves that subsection 16(1) of the bill be struck out and the following substituted therefor:

"(1) For the purpose of the 1988 regular elections, the campaign period commences on the day this act comes into force."

Mr. Daigeler: As you will recall, we had considerable intervention on this matter. People came to see us. I am very pleased to see that the government has responded and recognized that for this election year it would place considerable difficulties for the candidates if that were retroactive to January 1 of this year. It now is moved to come into force at the time—

Mr. Charlton: I just have a question on what the impact of this will

be on somebody who is obviously not yet a registered candidate but who has been fund-raising around an intention to be a candidate this fall.

Madam Chairman: They would be considered his personal funds and he will still have to live with the limits on spending.

Mr. Charlton: So the donors who make donations will not get credit for those donations made prior to this day.

Madam Chairman: Right.

Mr. Neumann: That is true. If we were to leave it the way the bill is drafted, which is making it retroactive to January 1, there were some problems brought to our attention and the minister balanced it off and felt that, perhaps given the time of the year—at the time he made his announcement in the Legislature in December that the bill would be retroactive to January 1, it was not anticipated we would be sitting here in June doing clause-by-clause.

In recognition of the reality of the calendar, it is felt that perhaps it is cleaner to go with the bill coming into effect the day the act becomes law. As the chairman has pointed out, the candidates are still under the obligation of the campaign spending limits, so if there are individual contributors who contributed over the limit, well, we are looking at the future, not at the past, but they are all going to be covered under filing their campaign expenditures and they will have to stay within the campaign spending limits.

Madam Chairman: Also within the municipality that is opted in.

Mr. Charlton: I guess my concern is that if in a municipality, the municipality decides to opt into the tax credit and because of the announcement in December that it would be retroactive to January 1, people who have made contributions to a candidate on the assumption they would be eligible for the rebate will—

Madam Chairman: The candidate can return that donation to the person who would like a rebate and then it can be given in after—

Mr. Mahoney: So the \$100 I gave to Howard Moscoe is not tax deductible?

Interjection: That is right.

Mr. Cousens: As the parliamentary assistant made his statement just a moment ago, if someone did not know the date this bill was tabled for first reading, it would have appeared that the minister had been so open and laid everything out on the table before the beginning of this year, that it was all just very natural that this bill would take effect on January 1, 1988. Well, that is not necessarily so because the bill received first reading in the House on April 5, 1988. It did not receive any reading, did not have any kind of opportunity either for ourselves or the House or the municipal councils to understand the intentions and the detailed ideas behind this bill until after it was tabled.

To my knowledge, there was not an awful lot of consultation that took place prior to the tabling of this. Sure, there had been talk; there has been talk for a long time about it. The New Democratic Party was saying: "We want

to make sure we get something in there. We will not pass some of the other bills you have on municipal elections unless you bring in something for funding of elections by municipal candidates." The agreement continues between the NDP and the government party.

What I find a little difficult to sit here and take is that the minister said that effective January 1 there would be this, this and this. He can say that and then suddenly when we get it, the government comes out with 30 amendments after we force it into committee, and we have 30 amendments. We have numerous delegations. We have three inches—maybe that is an exaggeration—two inches of presentations and reports by other people who are concerned with the legislation.

I would say the open, accessible, wonderful government you are talking about has failed in the way it has dealt with this legislation. As to coming along now and saying, "Oh, well, we have decided out of the goodness of our hearts that it will not come into force, at least for this part, until the act comes into force," I would say, "Come on, let's table the goods here."

The real goods are that this government has railroaded a piece of legislation through. I think it is going to be very, very difficult for candidates, clerks and people in Ontario to understand all the ramifications of it. I have a feeling that in spite of the fact there have been some amendments made and passed, it is still an imperfect piece of legislation.

On the one hand, you have such happiness coming from the government, "Oh, we have done so well, announced in December." Quite candidly, there is no happiness from the Ontario Progressive Conservative Party in the way this bill has been brought in and in the way it has had amendments brought in at the last minute today, or in the process that was followed in order to get those amendments. I do not call this open, accessible, wonderful government. I think it is going to have an impact on the local municipal elections. It is too bad the whole bill cannot be postponed until it comes into force in January 1991.

I know my vote will not carry an awful lot of sway in the way this committee will vote, but I tell you it carries at least the conviction that there is a decision to be made here and I will not be supporting this motion. It does in some respects move further towards satisfying some of the concerns that have been raised, but it does not go far enough. I could go on, but I do not think you really want to hear more.

Motion agreed to.

Section 16, as amended, agreed to.

Section 17:

Madam Chairman: Mr. Daigeler moves that section 17 of the bill be struck out and the following substituted therefor:

"17(1) This act, except section 3, comes into force on the day it receives royal assent.

"(2) Section 3 comes into force on the first day of January, 1991."

Mr. Cousens: Maybe I had better repeat what I just said, but I do not think I need to.

Madam Chairman: It is on the record.

Mr. Mahoney: Get a stamp made.

Mr. Cousens: Get a stamp made.

Interjection: You will get a chance again in the House.

Motion agreed to.

Madam Chairman: I have an amendment to section 17 from Mr. Cousens.

Mr. Cousens: I withdraw that. You have pretty well shown how you are going to vote on that one.

Madam Chairman: Shall section 17, as amended, carry?

Mr. Cousens: Could we have a recorded vote on that?

The committee divided on whether section 17, as amended, should stand as part of the bill, which was agreed to on the following vote:

Ayes

Charlton, Daigeler, Mahoney, Matrundola, Ray, M. C.

Nays

Cousens.

Ayes 5; nays 1.

Section 17, as amended, agreed to.

Section 18:

Madam Chairman: I have no amendments proposed for section 18. It reads, "The short title of this act is the Municipal Elections Statute Law Amendment Act, 1988."

Mr. Mahoney: I have a question: Is that really a short title?

Madam Chairman: Think what it could have been.

Section 18 agreed to.

Madam Chairman: Shall the bill, as amended, carry?

Mr. Cousens: No.

Madam Chairman: Do you want a recorded vote?

Mr. Cousens: No.

Bill, as amended, ordered to be reported.

Madam Chairman: I would like to thank you all and all those people who participated in the committee on this bill. I think there has been very

good discussion, very good dialogue with the groups that appeared before us, and good presentations from staff, both of the ministry and of the Legislature.

Mr. Mahoney: Madam Chairman, I would like to congratulate you for running an excellent meeting and to thank and congratulate the parliamentary assistant for piloting this bill through committee. In spite of what Mr. Cousens says, I think it very clearly is an example of a government that has been willing to listen to the people who have come before us and accept amendments.

As an aside, particularly to Mr. Cousens, I can remember for 10 years coming down here and trying to talk to the government of the day, a party which shall remain nameless, trying to get amendments and changes to bills and it was like talking to a brick wall. How anyone can suggest that we are not willing to listen, open and accessible—I do not care if it generates a response—

Madam Chairman: Of course, it will.

Mr. Mahoney: —because we cannot sit here and allow Mr. Cousens to make statements like that without members of this government side responding to it. I think it is a real example of openness and willingness to listen to amendments.

Mr. Cousens: We would not have been in this committee, for all this openness—

Mr. Mahoney: That is nonsense, too.

Mr. Cousens: No, it is not nonsense.

Mr. Mahoney: That is nonsense.

Mr. Cousens: There is just no doubt that we would not have gone through these meetings and these receptions of presentations, had it not been for ourselves, the Ontario Progressive Conservative Party, asking for it, demanding it and enforcing it, with the amendments that came through the active participation of the Association of Municipalities of Ontario, the Ontario Public School Trustees' Association, the Association of Clerks and Treasurers of Ontario and others.

I am pleased that we have made some progress, but I am worried about it. I do not go away with the great sense that there is an awful lot of caring about the problems that municipal electors can debate and clerks are going to have in the forthcoming elections.

Mr. Charlton: A pox on both your houses. I would like to thank the chairman and the staff of the committee for all the help they have been throughout. I suggest to the parliamentary assistant that with the government bringing this many amendments to a piece of legislation, it would have been helpful if we had them a little in advance of this morning. We had the PC amendments well in advance, and that was a help in terms of having the opportunity to look through them before we came to committee today. That is just a suggestion for the future.

Mr. Neumann: It is a point I will take back and give serious consideration to in consultation with the minister for future reference.

I would like to point out, Madam Chairman, that I guess in this political world of Queen's Park we all have our own perception of what goes on around us, but I recall the minister saying to us back in December that he had no objection to this bill being considered by committee. Indeed, I remember discussing with you at the time we dealt with the Metro bill that I hoped, when we ultimately got around to dealing with this bill, it would be this committee that dealt with it. So there was a willingness on the part of the government to have this bill reviewed by committee from very early on.

In conclusion, I would, like to thank you, Madam Chairman, staff and the members of the committee for co-operation. I will convey the co-operative spirit that was exhibited today back to the minister when I report to him.

Mr. Mahoney: Don, you are like Bob Rae. You forced us to do what we agreed to do in the first place. .

Mr. Neumann: Well done.

Mr. Cousens: We are not recognizing the efforts of Cynthia Smith, chief of legislative research, who has done an excellent amount of work to draw together the different views, and also legislative counsel for their assistance. I compliment you, Madam Chairman, for being fairminded.

Madam Chairman: Thank you.

Mr. Mahoney: Take back the "broom" comment.

Mr. Cousens: I am going to take back the broom. We will let Steve ride on it for a while.

Madam Chairman: Thank you all.

The committee adjourned at 5:13 p.m.

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